(2) by the committee acting as a whole or by subcommittee.
Subpoenas and interrogatories so authorized may be issued over the signature of the chairman, or ranking minority member, or any member designated by either of them, and may be served by any person designated by the chairman, or ranking minority member, or any member designated by either of them. The chairman, or ranking minority member, or any member designated by either of them (or, with respect to any deposition, answer to interrogatory, or affidavit, any person authorized by law to administer oaths) may administer oaths to any witness. For the purposes of this section, "things" includes, without limitation, books, records, correspondence, logs, journals, memorandums, papers, documents, writings, drawings, graphs, charts, photographs, reproductions, recordings, tapes, transcripts, printouts, data compilations from which information can be obtained (translated if necessary, through detection devices into reasonably usable form), tangible objects, and other things of any kind.

Mr. HYDE. The Chair recognizes Mr. Boucher of Virginia for purposes of an amendment.

Mr. BOUCHER. Mr. Chairman, I have an amendment in the nature of a substitute at the desk.

Mr. HYDE. The Clerk will report the amendment.

The Clerk read the resolution, as follows:

[The information follows:]

AMENDMENT IN NATURE OF A SUBSTITUTE TO
HYDE RESOLUTION

OFFERED BY MR. BOUCHER, MR. NADLER, MR. SCOTT,
MS. LOFGREN, AND MS. WATERS

Strike all after the resolving clause and insert the following:
That the Committee on the Judiciary (referred to in this Resolution as the "Committee") recommend to the House of Representatives that the House authorize and instruct the Committee to take the following steps within the indicated timeframes in order, fully and fairly, to conduct an inquiry and, if appropriate, to act upon the September 9, 1998, Referral of the Independent Counsel (in this Resolution referred to as the "Referral") in a manner which ensures the faithful discharge of the Constitutional duty of the Congress and concludes the inquiry at the earliest possible time.

SEC. 2. FIRST PHASE; OCTOBER 12–23, 1998.

Commencing on October 12, 1998, and concluding no later than October 23, 1998, the Committee shall take the following steps within the time allotted:

(1) THE CONSTITUTIONAL STANDARD FOR IMPEACHMENT.—The Committee shall convene public hearings to review thoroughly and comprehensively the Constitutional standard for impeachment of the President of the United States (referred to in this resolution as the "impeachment"), most recently recognized by the House of Representatives in 1974. During these hearings, the Committee shall solicit testimony from America's most renowned scholars to understand more fully the Constitutional provisions, historical precedents and legal authorities relative to the impeachment so that Members of the Committee may be better informed as to the constitutional standard for the impeachment.

(2) COMPARISON OF ALLEGATIONS TO THE CONSTITUTIONAL STANDARD FOR IMPEACHMENT.—The Committee shall next convene public hearings to consider which allegations, if any, arising from the Referral, if subsequently proven, could rise to the Constitutional standard for impeachment. After the hearing, the Committee shall meet in public session to decide which of the allegations, if any, if subsequently proven, could rise to the Constitutional standard for impeachment.

(3) SUFFICIENCY OF THE EVIDENCE SUPPORTING THE ALLEGATIONS.—If the Committee has determined that one or more of the allegations could, if subsequently proven, rise to the Constitutional standard for impeachment, the Committee shall convene public hearings for the purpose of determining whether a preliminary review of the evidence in the Committee's possession indicates the need for further proceedings with respect to those allegations arising from the Referral which have been found potentially to meet the Constitutional standard for impeachment. After the hearing, the Committee shall meet in public session for the purpose of determining which allegations arising from the Referral, if any, which have been determined to meet the Constitutional standard for im-

peachment are supported by sufficient evidence in the Committee's possession to justify further proceedings. If the Committee finds there is a necessity for further proceedings, it shall then be in order for the Committee to conduct formal inquiry proceedings with respect to such allegations.

(4) ALTERNATIVE SANCTIONS.—If the Committee finds that none of the allegations could rise to the Constitutional standard for impeachment, or if the Committee finds insufficient evidence to justify further proceedings with respect to those allegations that could rise to the Constitutional standard for impeachment, it shall then be in order for the Committee to consider the propriety of alternative sanctions.

SEC. 3. SECOND PHASE; OCTOBER 26-NOVEMBER 25, 1998.

(a) FORMAL INQUIRY.—If the Committee orders a formal inquiry, the Committee shall conduct its inquiry, including any public hearings it deems necessary, commencing on October 26, 1998.

(b) CONSIDERATION OF REPORT AND RECOMMENDATIONS.—Following the conclusion of the formal inquiry, the Committee shall convene for the purpose of considering any recommendations it may commend to the House of Representatives, including—

(1) any article of impeachment;
(2) alternative sanctions; or
(3) no action.

The Committee shall conclude this activity by November 17, 1998.

(c) ACTION.—If the Committee recommends one or more articles of impeachment or alternative sanctions, the Chairman and Ranking Minority Member of the Committee shall request the Speaker of the House of Representatives and the Minority Leader to convene the House on November 23, 1998, to consider the Committee's recommendations and to conclude its consideration by November 25, 1998.

SEC. 4. ENLARGEMENT OF TIME.

If the Committee is unable to complete its assignments within the timeframes set out in section 2 or 3, a report to the House of Representatives may be made by the Committee requesting an extension of time.

SEC. 5. AUTHORITY.

(a) IN GENERAL.—For the purpose of taking the actions authorized by sections 2 and 3, the Committee is authorized to require—

(1) by subpoena or otherwise—

(A) the attendance and testimony of any person (including at a taking of a deposition by counsel for the Committee); and

(B) the production of such things as it deems necessary for such actions; and

(2) by interrogatory, the furnishing of such information as it deems necessary for such actions.

For purposes of paragraph (1)(B), the term "things" includes books, writings, drawings, graphs, charts, photographs, reproductions, recordings, tapes, transcripts, printouts, data compilations from which information can be obtained (translated if necessary through detection devices into reasonably usable form), tangible objects, and other things of any kind.

(b) AUTHORITY OF COMMITTEE.—The authority of the Committee under subsection (a) may be exercised—

(1) by the Chairman and Ranking Minority Member acting jointly, or, if either declines to act, by the other acting alone, except that in the event either so declines, either shall have the right to refer to the Committee for decision the question whether such authority shall be so exercised and the Committee shall be convened promptly to render that decision; or

(2) by the Committee acting as a whole or by subcommittee.

(c) ISSUANCE OF SUBPOENAS AND INTERROGATORIES.—Subpoenas and interrogatories authorized under subsection (a) may—

(A) be issued over the signature of the Chairman or Ranking Minority Member or any Member designated by either of them; and

(B) be served by any person designated by the Chairman or Ranking Minority Member or any Member designated by either of them.

(d) OATHS.—The Chairman or Ranking Minority Member or any Member designated by either of them (or, with respect to any deposition, answer to interrogatory, or affidavit, any person authorized by law to administer oaths) may administer oaths to any witness.

Mr. BOUCHER. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read.

Mr. HYDE. Without objection, so ordered.

The gentleman is recognized for 5 minutes in support of his amendment.

Mr. BOUCHER. Thank you, Mr. Chairman.

On behalf of the Democratic members of the committee, I am pleased to offer this afternoon an alternative for the process by which the committee will pursue in considering the referral of the Independent Counsel.

I particularly want to commend a number of members of this committee who we have worked with over the course of the last 2 weeks in order to structure this alternative. Those members include the gentleman from New York, Mr. Nadler; the gentlewoman from California, Mrs. Lofgren; my Virginia colleague, Mr. Scott; and the gentlelady from California, Ms. Waters. I want to thank them for their many hours of dedicated efforts they have contributed substantially to the structuring of this alternative.

Mr. Chairman, the public interest requires a fair, thorough and deliberate inquiry by the Judiciary Committee of the allegations arising from the referral of the Independent Counsel. But the public interest also requires an appropriate boundary on the scope of that inquiry. We should carefully and thoroughly review the matters forwarded by the Independent Counsel, but the inquiry should not become an excuse for a free-ranging fishing expedition. The potential for such a venture should be strictly limited by the terms of the inquiry resolution itself, and the resolution of inquiry that I am offering this afternoon contains those appropriate restrictions.

The public interest also requires that the matter be brought to conclusion at the earliest possible time that is consistent with the committee conducting a thorough and a complete inquiry.

The country has already undergone substantial trauma. If this committee carries its work beyond the time that is reasonably needed for a complete resolution of the matter now before us, the injury to the Nation will only deepen. We should be thorough, but we should be prompt.

Given that the facts of this matter are generally well known—some would say too well known—and given that there are only a handful of witnesses whose testimony is relevant to the matters arising from the referral, and given the further fact that all of the witnesses whose testimony is relevant have undergone substantial scrutiny by the grand jury already, there is absolutely no reason to prolong this committee's work into next year. A careful and a thorough review can be accomplished between now and Thanksgiving of this fall.

Our resolution requires that the committee hold hearings on the constitutional standard for impeachment which has evolved over 2 centuries and which was most recently recognized by this committee and by the full House of Representatives in 1974.

Our substitute then directs the committee to compare the allegations arising from the referral to the constitutional standard and determine which of the allegations, if any, rise to that standard. If any are found to meet that test, the committee would then determine if there is substantial evidence stated in the referral to sup-

port those allegations. Any of the allegations arising from the referral that pass those initial tests would then become the subject of a formal inquiry and investigation, following which the committee could consider what action it desires to take.

And the committee would have before it a range of actions, beginning with articles of impeachment, extending to alternative sanctions, including recommendations of censure and a no action option.

Under this resolution, the committee would begin its work on October 12th and conclude all proceedings, including the consideration of recommendations by the committee, by November 17th. The House could then complete the consideration of any recommendations the committee might make by November 23rd.

This approach is fair. It is in the public interest, and it is what the American public expects. It gives deference to the constitutional standard for impeachment that was recognized in the 1974 report of the House of Representatives. It offers ample time to consider carefully any of the allegations which arise to the constitutional standard, and it assures that the entire matter can be resolved promptly and that the Nation is not further disadvantaged by a prolonged inquiry which is clearly not justified by the material forwarded to us by the Office of Independent Counsel.

It presents a framework that will enable the committee and the House of Representatives to discharge their constitutional obligations in a manner that is both thorough and expeditious.

Mr. Chairman, I hope it will be the committee's pleasure, after careful review, to adopt this resolution of inquiry which establishes an adequate balance to assure the protection of the rights of all, to assure a thorough review and to assure that this committee completes its work at the earliest possible time.

Mr. HYDE. Without objection, the gentleman from Virginia is yielded an additional minute.

Mr. BOUCHER. I yield to the ranking member.

Mr. CONYERS. On behalf of all of us who have seen this on this side of the aisle, I want to commend you and the gentlemen from New York and Virginia, the gentleladies from California, for bringing forth a reasonable and rational plan. And I think you have put it forward in a highly acceptable way, and I wanted to offer these thanks at this point to you.

Mr. BOUCHER. I thank the gentleman for his comments.

Mr. Chairman, I yield back the balance of my time.

Mr. HYDE. I thank the gentleman.

The gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. HYDE. The gentleman is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, this amendment is an attempt to further stall out the process of determining who told the truth and who did not tell the truth in this very sorry mess.

If you look at the text of the resolution, the investigation into whether or not the President committed an impeachable offense is stopped until October 26. Between now and then, the committee is supposed to delve into what the scope of our powers would be in investigating this matter. We are supposed to have constitutional

experts in hearings on that, and a vote would be postponed from today until the end of that period on whether or not to launch a formal impeachment inquiry.

So what is being proposed today is that the impeachment inquiry be stalled out until the conclusion of the scoping process. Then should the committee decide on or about October 23rd to launch an inquiry, the inquiry would begin on October 26 and conclude no later than November 17th when a report would have to be made to the House of Representatives. That gives us 17 working days to do the entire impeachment inquiry, and it gives an invitation to those who would want to stall out the process to do so, either through the resistance of subpoenas, not agreeing to subpoenas, witnesses not cooperating and potentially being cited for contempt.

And it certainly is a blank check for those people who do not want the Judiciary Committee to come to a conclusion to be able to obstruct the process.

Now I have great faith in Chairman Hyde's statements that he does not want to stall the process out. But arbitrary time lines will do precisely that. That is what happened in the Thompson investigation over in the Senate. It is certainly a mistake that should not be made by the Judiciary Committee in discharging this very important responsibility.

Looking back at the previous impeachments that have taken place, the Richard Nixon impeachment took 19 months from the time of the first introduction of a resolution authorizing the Judiciary Committee to conduct full and complete studies and an investigation into the approval of the articles of impeachment against Richard Nixon.

The Alcee Hastings impeachment took 16 months between the referral by the judicial conference to the committee approval of the articles of impeachment.

And the Judge Walter Nixon impeachment took 13 months between the referral by the judicial conference until the committee approved the articles of impeachment against the judge.

Under the constitutional doctrine of separation of powers, we have to develop and submit the evidence independently. That is a constitutional requirement, and it is one that was followed by the Judiciary Committee in all of the impeachments that I have discussed. We cannot do that in 17 days, particularly if we have uncooperative witnesses or people who want to stall out the proceedings.

I think that the amendment by the gentleman from Virginia is extremely well-intentioned. He wants to speed the process up. But you don't do it by stopping the inquiry for 2 weeks while we talk about the constitutional grounds for impeachment and then setting up a time line which is an invitation for people to frustrate the process.

I would hope that his amendment would be voted down.

Mr. HYDE. Is there further discussion?

The gentleman from New York, Mr. Nadler.

Mr. NADLER. Thank you, Mr. Chairman.

First, let me simply say that the gentleman from Wisconsin, Mr. Sensenbrenner, is simply wrong when he characterized the resolution as saying that no inquiry into the evidence would be permitted

under this resolution, under the substitute resolution, until after October 26. I refer you to page 3, that in the first phase, which must end by October 23rd, the committee shall meet in public session for the purpose of determining which allegations arising from the referral, if any, which have been determined to meet the constitutional standard for impeachment are supported by sufficient evidence in the committee's possession to justify further proceedings.

I would also point out that, although the resolution does aim to be fair and deliberative and focused and expeditious, as I believe the American people want us to, lest anyone fear, as the gentleman from Wisconsin does, that someone might try to filibuster or that there might not be enough time, although we set up a time frame and say that the committee shall first look at the definition of what is an impeachable standard, personally, as I said before, I would recommend just adopting what the House did in 1974, but we might want to change it, and then should compare the allegations to the standard to see which, if proven to be true, would be impeachable and then should take a preliminary look at the evidence of those allegations that would be impeachable, if proven true, and then, on October 23rd, should decide whether to recommend formal proceedings. That sets up a second phase and all that should be done by October 23rd.

And so the vote that we are taking today would be on October 23rd and that would set up a second phase from October 26th for about a month until just before Thanksgiving to hold those formal proceedings and vote on impeachment or not.

Section 4 of the bill says, "if the committee is unable to complete its assignment within the time frame set out in section 2 or 3, a report to the House of Representatives may be made by the committee requesting an extension of time."

In other words, it is not a rigid time frame. It is saying that these seem to us to be achievable, an achievable time frame, but the committee can ask the House for an extension if it seems necessary.

So, if the majority is afraid the minority or anybody else would filibuster, the majority can vote itself additional time should that happen.

Let me say that it has been almost a month—today is October 5. It is 4 days short of a month since the Special Prosecutor referred his allegations to us. In all that time until today, this committee has spent not an hour, not a day, not a minute discussing the substance of the allegations or discussing anything substantive at all.

We have spent innumerable days and hours instead discussing what crud we should dump on the American people. We have spent lots of time discussing how foully we should foul up the Internet and what we should put out that might be illegal in the Communications Decency Act, if it had not been ruled unconstitutional.

Now we are being asked by the majority to vote today without any discussion of these allegations, without any evidence, discussion of evidence, without any discussion of standards, we should vote today on the momentous question of instituting for the third

time in American history formal impeachment proceedings. I submit that that is very wrong.

I will repeat what I said this morning: We must have a proper process and a process that is seen by the people to be fair. And to me, frankly, the exact timetable is less important than process. The proper process is, first, spend a few days, not as the chairman said a month, a few days, which is what we are talking about, looking to see if we can come up with an agreement or at least narrow it down to two separate views on what are the standards for impeachment.

Then we would compare the allegations with the standards, then look at the evidence. When we are looking at the evidence and when we are discussing it, to discuss the differences between what our distinguished counsels have said, are the allegations set forth impeachable; are the impeachable allegations supported by the evidence; at least do they make a prima facie case deserving of a detailed proceeding, et cetera.

The President, if he is going to be impeached—if the President is going to be impeached at the end of the day, I submit that the procedure we are suggesting will not hinder it, will not make it less or more likely but will make it more fair.

Finally, I would say, if I could have an additional 15 seconds, or 30 seconds, Mr. Chairman.

Mr. HYDE. Without objection, the gentleman is recognized for an additional 30 seconds.

Mr. NADLER. I thank the Chairman.

I also want to observe as a matter of form that this committee is limited, or bound, rather, by the resolution referred to, by the resolution of the House which says that "The Committee on the Judiciary shall review the communication received on September 9th from an Independent Counsel to determine whether sufficient grounds exist to recommend to the House an impeachment inquiry be commenced."

I submit that says that our review should be limited to the communication. We should get another resolution from the House if we want to expand it beyond that.

I also submit that we have not reviewed it and cannot vote on a formal proceeding today. Staff has reviewed it, but this committee has not spent 1 minute reviewing it.

Mr. CONYERS. Will the gentleman yield?

Mr. NADLER. Yes.

Mr. CONYERS. All the gentleman from New York, Mr. Nadler, is saying, my fellow colleagues, is that this is the horse before the cart consideration; that there must be discussion, and that we have a very specific provision within section 4 to request an extension of time; that these are not hard and fast time lines.

I thank the gentleman for his very clear explanation.

Mr. NADLER. Thank you.

I yield back the balance of my time.

Mr. HYDE. If I yield the gentleman from New York 2 additional minutes, will he yield to me?

Mr. NADLER. Certainly.

Mr. HYDE. Thank you.

I am puzzled, and I really mean that, as to what Peter Rodino did on this critical issue of first establishing standards and then finding out what the facts are. Because, as I read the record, that is just the opposite of what Peter Rodino did. I have it here. Let me read it to you and tell me what this means. I honestly don't understand it.

It says, "Similarly, the House does not engage"—and this is Rodino's report from 1974. "Similarly, the House does not engage in abstract advisory or hypothetical debates about the precise nature of conduct that calls for the exercise of its constitutional powers. Rather, it must await full development of the facts and understanding of the events to which those facts relate."

Continuing from Mr. Rodino, "This memorandum offers no fixed standards for determining whether grounds for impeachment exist. The framers did not write a fixed standard. Instead, they adopted from English history a standard sufficiently general and flexible to meet future circumstances and events."

The record is that Mr. Rodino refused to first establish standards and then go see what the facts were and see if they fit the standards. It is the other way around. We have the formula: high crimes, misdemeanors, treason, bribery. Now we have to see what the acts are and do they fit under that rubric.

Mr. NADLER. Will the gentleman yield?

Mr. HYDE. Yes, I will yield back your time.

Mr. NADLER. I would like to make a distinction here. I appreciate your question. I would like to venture an answer.

There is a very fundamental difference from what happened in 1974 to what is happening now. In 1974, not a few months of investigation, but there were a couple of years of investigation, and a——

Mr. HYDE. Right. We have the 30 volumes right over there from the Ervin Committee, right over there.

Mr. NADLER. Good. There was 1 year of investigation, followed by a few months of hearings in the Judiciary Committee. The Judiciary Committee then having the facts that it had established, and having in mind whatever its own notion of standards might be, formulated articles of impeachment which it judged to rise to impeachable standards and then issued a report on every impeachability standard.

We, however, have been charged by the House of reviewing a list of allegations referred to us by a special counsel who tells us that they are impeachable, and we are asked to determine whether we should launch a formal inquiry, a formal impeachment proceeding based on his determination that those are impeachable.

I submit that, before we can start examining that, we have to have some notion of what impeachable would be.

Mr. HYDE. How about high crimes and misdemeanors? How is that?

Mr. NADLER. What does it mean? What does it mean?

Mr. HYDE. The Chair is going to try to recapture some order here.

Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. Chairman, I must oppose the substitute offered by my colleague and neighbor in southwest Virginia. Let me do something that I don't often do. That is to ask that the October 2nd Washington Post editorial entitled "The Impeachment Inquiry" and the October 4 New York Times editorial entitled "The Committee on the Judiciary Vote" be made part of the record.

Mr. HYDE. Without objection, so ordered.

[The information follows:]

[From The Washington Post, Oct. 2, 1998.]

THE IMPEACHMENT INQUIRY

The limits that House Judiciary Committee Democrats have suggested imposing on the panel's forthcoming impeachment inquiry are mostly bad ideas that the Republicans are right to resist. The Democrats say their only goal is to keep the inquiry from being turned into a fishing expedition. No doubt that is a risk, but with one possible exception, the limits they were still discussing yesterday would create greater risks in the opposite direction of obfuscation and delay. The Republicans, if they abuse the impeachment process, will suffer mightily—and deservedly—in terms of precisely the public opinion that they seek to influence. Our guess is that the gravity of the task will be a greater discipline on them than any rule.

The Democrats' first idea is to put a time limit on the committee's deliberations. We favor as quick a resolution of this matter as the committee can achieve, but experience suggests a time limit could encourage delaying tactics instead. The Senate Governmental Affairs Committee conducted a time-limited investigation of fundraising abuses in the 1996 presidential campaign and was foiled in part by witnesses who simply ran the clock. Better than any artificial deadline would be a simple commitment on the part of the Judiciary Committee to work nonstop until the inquiry is complete.

Some Democrats also want the panel to decide in advance what constitutes an impeachable offense, and only then begin an inquiry into the president's behavior if the two seem to match up. Judiciary Chairman Henry Hyde is correct to resist that as well. It's true that in eventually deciding whether the president's conduct constituted an impeachable offense, the committee will have to decide, if only implicitly, how serious such an offense must be. But that kind of judgment is all but impossible to make in the abstract, outside the context of facts that are still emerging and that almost daily paint President Clinton's behavior in slightly different hues.

The White House says an inquiry is unnecessary, that the basic facts are known and it's already clear they don't amount to an impeachable offense. But that's *not* clear. Plainly there are offenses so minor as to permit a before-the-fact judgment that, even assuming the worst, they are not impeachable. Perjury and obstruction of justice, however, are not among them. The committee needs to find the facts.

The Democrats suggest, finally, that the scope of the proposed inquiry is too broad. Absent a further report from the independent counsel, they would limit it to the charges arising out of the Monica Lewinsky affair, and thereby rule out expeditions of the kind some Republicans have threatened into other areas—the FBI files issue or the long-ago White House travel office flap, for example. We agree that without good cause, which does not now exist, the committee ought not venture into such areas. Will a rule or an understanding be a better way of achieving such restraint?

The Watergate parallel keeps being invoked in this connection, wrongly, we believe. Mr. Hyde has based his open-ended resolution of inquiry on the one used by the Judiciary Committee in investigating Richard Nixon's behavior 25 years ago. That has touched off a mostly partisan squabble as to whether the offenses in the two cases are comparable. They aren't, but even if they were, comparison is not the issue. The issue is whether the rules are fair and the inquiry produces a credible result. It won't if the inquiry is artificially constrained, and it won't if it is artificially extended, either. The parties, both of them, need to understand that; this is not one that either side should try to game in advance.

[From the New York Times, Oct. 4, 1998.]

THE JUDICIARY VOTE

This week, for just the second time this century, the House of Representatives is likely to approve an impeachment inquiry into the conduct of a President. Given the serious charges leveled against Bill Clinton by Kenneth Starr—and the need to have those charges resolved in an open, orderly way—that decision is justified and will be supported by many Democrats. But how the inquiry is conducted is a matter that requires very careful consideration by the American people and their representatives.

With midterm elections just a month away, the political conflict promises to be intense. But it need not be disabling, if sensible rules are adopted and followed. The plan proposed by the Republican majority looks sound and fair.

It is essentially the model used 24 years ago by a Democratically controlled House in examining the conduct of Richard Nixon in the Watergate case. It sets no limits on the duration or dimensions of the inquiry. Democratic leaders on Friday urged the House to set a late-November deadline for completion of the Judiciary Committee's work, and to limit the investigation to the Monica Lewinsky case.

Though this page favors the expeditious handling of this case, and believes it could eventually be resolved through a censure that would allow Mr. Clinton to remain in office, an artificial timetable serves no useful purpose. It only invites the White House to stall and forces the committee to rush its work. Though Americans are impatient with the Lewinsky scandal, a snap inquiry would be a disservice to the rule of law.

There is also no reason for the committee to fence off Whitewater, the dismissal of staff at the White House travel office and the White House misuse of Federal Bureau of Investigation background files, matters still being investigated by Mr. Starr. Those who complain that Mr. Starr has spent too much time and money investigating Mr. Clinton cannot now argue that the results of that work should be denied to Congress, if they are germane. But Mr. Starr must tell the Judiciary Committee right away if he has additional evidence of impeachable offenses by Mr. Clinton. The committee, for its part, must assure that marginal matters are not added to its investigation. Nor should the 1996 campaign-finance abuses be included in this inquiry, since Attorney General Janet Reno seems to be moving toward the long overdue appointment of an independent counsel in that area.

The natural contours of an impeachment inquiry accommodate two converging avenues of work, one dealing with the evidence, the other with the constitutional question of what constitutes an impeachable offense. The Judiciary Committee has wisely chosen to consider these in tandem, with the expectation that each inquiry will inform the other. Representative Henry Hyde, the chairman of the committee, has proposed other sensible rules, including subpoena power for the democrats, public hearings and ample opportunity for the White House to defend the President and to contest the committee's work. He has also authorized a bipartisan group of members to review Mr. Starr's files for exculpatory evidence.

In the end, both constitutional and practical considerations argue for keeping the process moving under clear rules. On the first point, the charges against Mr. Clinton cannot now be ignored or allowed to linger. They must be resolved in the way described by the Constitution. On the practical side, gearing up this somber constitutional process will provide incentive for the Republican Congressional leadership and the White House to try to find a settlement that respects both political continuity and the rule of law.

Mr. GOODLATTE. I think they make a very sound case for not restricting the work of this committee on such an important matter of great magnitude, no matter what you think of the evidence. No matter what you think of where this may be headed, the magnitude of an impeachment inquiry against the President of the United States is such that this committee's hands should not be tied in any way that could impair the ability of the committee to operate because of political considerations, of stalling, or raising issues of whether or not a particular witness we call or a particular avenue that we look into is beyond the scope of the inquiry.

I agree wholeheartedly with the chairman that the committee should not engage in a fishing expedition, but I also believe that

if there is credible evidence of additional impeachable offenses offered by a credible source, the committee should stand ready and able to look at those matters, because they affect the overall question of the fitness of the President of the United States to hold the office. We should not look into this matter with one hand tied behind our backs.

Many have complained about the amount of time and money that has been expended by the Independent Counsel in looking into this matter. For heaven's sake, if the Independent Counsel comes forward with additional credible evidence, why would we waste that time and money by not looking into those matters, if indeed they constitute a credible matter for additional consideration by the committee?

So, for those reasons, I must oppose an effort to constrain the work of the committee. We need to do this in an expeditious manner. We need to do this in a way that deals with every matter that is before the committee and any additional credible matter, but we should not tie the hands of the committee. I would oppose the amendment for that reason.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Thank you.

Do you read the Boucher resolution the same way I do? In the enlargement of time section, the wording is that, "If the committee is unable to complete its assignments within the time frames," et cetera, "a report to the House of Representatives may be made by the committee requesting an extension of time."

Do you get the same feeling as I do that this could take us until next April to complete, that it would go longer than the chairman himself has said is a tentative deadline for the end of the year?

Because if the House, first of all, is not in session, we would not be able to get an extension of time. Number two, if the House of Representatives has to be recalled, that, too, would delay. Then we would begin a whole series of other debates having to do with the extension of time.

Do you read that kind of possibility in the Boucher resolution?

Mr. GOODLATTE. Reclaiming my time, I would say to the gentleman that he is quite right; that the risk is, I think, very great with such very short timetables that the slightest delay in the production of documents, in the response of subpoenaed witnesses or any other matter in this process could cause us to have to go back to the full House of Representatives in a very short period of time to ask for an extension. The full House not being in session would delay the matter further while we called them back in.

It seems to me that it is far more appropriate for the committee to do its work under the watchful eye of everyone in this country. We know that if we go beyond the scope of this inquiry in a manner that appears to the public to be a fishing expedition, we are going to be held accountable. We know that if we drag this matter on unnecessarily, we will be held accountable.

The Nation is watching, and we should proceed expeditiously, but not with one hand tied behind our back.

Mr. HYDE. The gentlewoman from California, Ms. Waters.

Ms. WATERS. Thank you very much, Mr. Chairman and members.

There is a lot of discussion about the time frames that are in the substitute. That is but one part of this plan that we are putting forward. I think that Mr. Boucher and others will agree, as Mr. Nadler has stated, that if we find that we need additional time that there is nothing to preclude our going back to the House and getting the time that we need.

I think what is important about this plan is the fact that it gives us a time frame. It gives us some direction. It talks about moving forward in an orderly way. The time frames that are identified are not necessarily absolute if indeed we need to have extensions. Again, that is but one part of it.

I would suggest that those who have difficulty with the dates as they are indicated propose some alternative dates, but let us move on with the rest of this resolution. This resolution, additionally, is extremely important because, as we have heard today, the reference to high crimes and misdemeanors is language in the Constitution that has many, many interpretations.

It is interesting, as I have looked at definitions and discussions, I find that the definitions go all the way from Gerald Ford in 1974, who said that it means anything that Congress decides that it means, to others who have deemed it to mean acts that are criminal in nature.

I think it would be very wise to have constitutional scholars and others come in and engage us in a discussion about high crimes and misdemeanors. I think it is important because, as we say in this resolution, we cannot put the cart before the horse. We cannot move into inquiry not knowing what the standards are. So I think it is very important for us to have a reasoned discussion about the meaning of the Constitution.

Further, I think that our minority staff pointed out today that, despite the fact that the Independent Counsel has sent us over referrals with the 11 allegations, that the majority staff has gone further and stretched them out to some 15 allegations, and the minority staff pointed out that there are some duplications, no matter how much you stretch it out, and it can be condensed down to about three allegations.

So in order to measure these allegations against a standard, we really do need to know and agree and have a consensus about the allegations. I have never taken what Ken Starr sent over to us to be absolute. I reject that, and as you look at them, I think most of you will, too, because indeed, in my estimation, references to perjury and lying or obstruction of justice all overlap.

I agree with minority staff, that you can condense these down, the allegations, to something much less than 11 allegations. In order to know what evidence to look at to support these allegations, it must be organized in a fashion where the evidence is matched with the allegations that we decide on.

There are a lot of representations in all of the information that has been thrown at us; and, of course, there is a difference in opinion between the principals in this matter, where they disagree. We do not know who is lying and who is not lying, and if we are to

get a handle on this, we must have the allegations that we agree on in order to know what evidence to look at.

Let me just say, because my time is running out, the importance of this resolution is to give us a framework and to give us a guideline and to make sure that we are moving in an orderly fashion. Without that, it is all over the place, Mr. Chairman.

I would respectfully submit that if we are serious about the work that we are about to do, we will adopt this resolution.

Mr. HYDE. I thank the gentlewoman.

The gentleman from Georgia, Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

Mr. Chairman, earlier in the day I noted with some amusement that there was some not insignificant degree of applause on the other side when our colleague from Florida, Mr. Wexler, urged his colleagues to—actually, probably he urged all of us to—I think his words were "stop this nonsense."

Now, however, it is somewhat amusing to see the other side urging that there are indeed very grave matters here that indeed require us to not only look into these matters with due dispatch but look into them with great dispatch.

So either the applause earlier in the day signaled the true desires of the other side, and that is to just stop this whole process, otherwise they would not have applauded, or they now have changed their minds in light of the subsequent presentations perhaps by the counsels and agree that it would be premature to stop this nonsense and, indeed, we ought to move forward with an inquiry of impeachment. Perhaps at some point during the course of today's discussion they can clarify what seems to be somewhat of a contradiction.

Mr. Chairman, all of us, particularly those of us who are familiar intimately with our justice system, know that justice arbitrarily forestalled is justice denied. But we also know just as well that justice arbitrarily foreshortened is justice denied. That really is the recipe that this amendment in the nature of a substitute by the gentleman from Virginia would have us do. That is to deny justice by arbitrarily foreshortening the proceedings according to the inquiry of impeachment.

The chairman read earlier from the 1974 report by the staff of the impeachment inquiry, which included no less a constitutional scholar than Hillary Rodham, and the chairman read very correctly the passages in there which were adopted expressly by Chairman Rodino that indicate that, indeed, there are very basic constitutional questions of law involved, and that the House, similar to the courts, did not engage in abstract advisory or hypothetical debates, but we must, as do the courts, await full development of the facts and understanding of the events to which those facts relate.

The understanding of the events and the facts relate to such things as are noted on page 5 of this report, that "The framers intended the impeachment power to reach failure of the President to discharge the responsibilities of his office."

On page 21, it refers to "his constitutional duties to take care that the laws be faithfully executed."

For example, further, on page 26 and its conclusion, that process "relates to undermining the integrity of the office."

The importance of Chairman Rodino's statement that the chairman cited and the importance of the research done by Ms. Rodham and Mr. Nussbaum and others back in 1973 and 1974 relates to the fact that, because the impeachment proceedings relate to these duties of the President, the integrity of the office, he is fulfilling his duties and responsibilities, it necessarily in every single instance requires that those duties and the responsibilities and the specific actions of the President be inquired into. That is the nature of an inquiry of impeachment, and that is what we are doing here today.

As the chairman knows, there has been no prior impeachment proceeding in the history of this Congress that has done what the Boucher amendment in the nature of a substitute would have us do. That is to, in advance, even before we convene the inquiry itself, to place arbitrary time limits on the extent of that inquiry.

All of those also on this panel, Democrat and Republican alike, who are familiar with proceedings in the courts know full well that courts do not in advance place arbitrary limits on the search for the truth in the disposition of cases. Had they done that, if courts did that, then they would suffer the same fate as the Thompson committee did over in the Senate last year. That is, to give license to the opponents of the fair and sifting search for the truth, that is, this administration, as opposed to the Thompson committee's search for the truth, license to forestall and delay and use every dilatory trick in the book, and then invent some when they have exhausted all of those in the books, in order to see that justice is not done and the facts are not ascertained.

I fear, Mr. Chairman, that that really, indeed, is the agenda behind the Boucher proposal. I would urge all of my colleagues on both sides of the aisle, based on the work of Democrats reflected in the report by the staff of the impeachment inquiry in 1974, based on every single precedent of impeachment proceedings in this House by different parties at different times in our history, by every precedent established in the courts of our land, which do not arbitrarily limit the search for the truth, that the Boucher amendment be defeated.

Mr. HYDE. The gentleman's time has not quite expired.

Mr. BARR. In that case——

Mr. HYDE. In that case, the gentlewoman from California, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman.

I think that it is worth reading the sentence that precedes the sentence that has been repeated by the majority found in Mr. Rodino's introduction to the 1974 report. It is as follows. Mr. Rodino is describing, in the 1974 report, the grounds for presidential impeachment, Mr. Rodino said that this report was intended to be a review of the precedents and available interpretive materials in seeking "general principles to guide the committee."

That is something that I think the discussion this afternoon makes clear that we need to do, because we have a variety of suppositions about what we are trying to prove in the course of these proceedings.

If you look at pages 26 and 27 of the report, the only part of the report that was actually officially approved by the House of Representatives, by a vote of 412–3, it says that: "The crucial factor is

not the intrinsic quality of the behavior but the significance of its effect upon our constitutional system with the functioning of our government," and that that is the key issue that faces the Congress when looking at an impeachment matter.

There has been much said about the time lines and whether it is appropriate to try and set some goals for accomplishing these tasks. But I certainly think this is not unprecedented.

I note that in February of 1974 that Mr. Rodino pledged as his goal or target to conclude the impeachment inquiry by April, and that the minority leader at that time, Mr. Rhodes, accepted that target date as the gentleman's word. Mr. Rhodes said that was good enough for him, and they did agree to limit the inquiry or set a goal for the 30th of April.

I would note that if we compare where we are today and where they were 24 years ago, from October of 1973 through February of 1974, there was substantial research done then on the Constitution. In the proposal made by us this afternoon, we propose that 11 days be committed to reviewing the Constitution, the precedents and the law and comparing the allegations in the report to the precedents and the Constitution.

Although I have heard rumors that there may be hearings after the fact—after the vote—I haven't seen any firm proposal to look at the Constitution at all.

Mr. HUTCHINSON. Would the gentlewoman yield?

Ms. LOFGREN. Not at this point, but when I finish I would be happy to do so if I have time.

I also want to note just a couple of things that I think need to be outlined in terms of what we have received today as the standard for impeachment.

Mr. Schippers has indicated—and I'm looking at page 3 of this written report—that the "integrity of the country's entire judicial process is fatally compromised, and the process will inevitably collapse if there is a violation of oath."

It goes on to say that, "The subject matter of the case, whether civil or criminal, and the circumstances under which the testimony is given, are of no significance whatever." I see no citation for this proposition, but it is one of the things that needs to be discussed as we proceed in this matter. It needs to be discussed straight away.

On page 7 of the report from Mr. Starr, he says that acts that are serious, serious matters, as included in these allegations, may constitute grounds for impeachment, but it gives no citation whatsoever. He cites not one authority, not one case, not the Founding Fathers, nothing whatsoever.

I think if we do not take the 11 days that we are proposing to compare the allegations to the Constitution, we will never get to a just answer. We will never be able to fulfill our constitutional duties.

I realize that the majority has the votes. Members of the majority can do essentially whatever they decide to do. But I would beg you to consider when you use your voting authority, the need to review the Constitution and the need to reach a common understanding of what the precedents are, for otherwise we will fail to put our

constitutional obligations as Americans ahead of our role as partisan members of political parties.

Mr. HYDE. The gentlewoman's time has expired.

The Chair yields himself 2 minutes.

First of all, we are going to have hearings. We are going to invite every academician that wants to talk to us and update the current scholarship on standards of impeachment. We are going to do that. But, meanwhile, we do not want to be suspended in amber while time marches on, so we are going to continue our work. But we will have this seminar of intellects on impeachment, although I would suggest there is an awful lot written on it now.

I commend to you the Duke University article, which we have sent around to everybody. But we are going to do that.

Secondly, if we have time for this discussion of standards, I would like to have a standard for what is due process. What is equal protection of the law? What is arbitrary and capricious?

I always thought that what you do is you have that general rubric, and then you look at the fact situation and see, now, as applied, is this regulation arbitrary and capricious? But I guess you have to list and litanize and catalog every possible circumstance to have standards for due process.

It is like pornography, you know it when you see it, but you have trouble defining it.

Mr. FRANK. Mr. Chairman, would you yield?

Mr. HYDE. Surely. I may have to give myself another minute. I hope you realize the downside to yielding to you.

Mr. FRANK. That is okay. In that tradition, I was not sure I knew pornography when I saw it until I got a chance to read the report. Now I feel sure.

Mr. HYDE. How intensely do you read it?

Mr. FRANK. I skim it.

Mr. HYDE. I thought so. I thought I would give you an opportunity to straighten that out.

Mr. FRANK. It is not one of my primary interests.

But I do have a question about the question of standards, because it does seem to me, I mean this very seriously, that we may have already begun to get into the process of defining what is impeachable. Because if I heard correctly from majority counsel, he dropped or at least I guess recommended that we drop one of Mr. Starr's charges, the last charge, the one about invoking executive privilege.

Mr. HYDE. Right.

Mr. FRANK. My question is, is it the intention of the majority to drop that charge? Is that in the process of defining standards?

Mr. HYDE. We haven't gotten that far, Mr. Frank. Once we get into the next phase we will consider that, sure.

Mr. FRANK. So that the recommendations of the counsel of the majority to drop the 11th count, that we have the recommendations from the majority count to drop it——

Mr. HYDE. You may take some consolation in the fact that we may not run with that. It is possible.

Mr. FRANK. I don't mean to be negative. But beyond consolation, here, what I am noting is that, apparently, the majority is in the process of—somebody has an impeachable offense standard. Be-

cause, as I understand the process now, counsel is recommending, and you appeared, sub silentio until now, to be accepting it——

Mr. HYDE. And ambitio, too.

Mr. FRANK. You are dropping this, but it does not meet your standard of impeachment. So we have already begun this process of deciding what is impeachable by dropping one of the counts by Mr. Starr.

Mr. HYDE. I think this is one of the most useful interchanges we have had all day. I just want to make this point: The Nixon impeachment hearings took 7 months, by one calculation, and the other one was 19 months, by Mr. Sensenbrenner's calculation. Judge Hastings was a 16-month investigation. Judge Nixon was a 13-month investigation.

The President here has admitted nothing. We don't agree even on the facts. Mr. Lowell and Mr. Schippers certainly were differing on many of the facts. But this resolution gives us 17 days to investigate that. That is not, if you will pardon the expression, due process.

Mr. FRANK. If you will yield, but as I understood you to say yesterday, you are about 3 weeks beyond us. So if, in fact, you think all this has to happen, were you serious then about thinking you were going to get it done in 19 months, 17 months, and all you have is 3 more weeks between Christmas and Thanksgiving? There appears to be a disparity.

If in fact you need 19 or 17 months, if we have to do independent fact-finding, what did you mean when you said we were going to end by the end of the year?

Mr. HYDE. I can truthfully say I don't understand your question.

Mr. FRANK. Let me rephrase it.

Mr. HYDE. No, no. I understand it.

Mr. FRANK. How can you say, by the end of the year——

Mr. HYDE. I don't know. If you will cooperate and we will get some stipulations, we can end before then. If you will change the pattern of delay and stall ball and lost records, and not you, not you——

Mr. FRANK. Mr. Chairman, if you will yield one more time, I object very much to this charge of stalling. We got this report from Kenneth Starr nearly a month ago. This committee has done nothing but been the publicity transmission belt until then as a committee. Some of us tried earlier to get some of this process started. It is not our responsibility that a month has gone by and nothing has been done until today.

Mr. HYDE. I will accept charges that have some merit to them, but we are almost out of breath, we have been running so fast to move this thing along. Nobody wants it to be delayed 10 minutes, I can assure you that.

Meanwhile, if I may yield to Mr. Canady.

Mr. CANADY. Mr. Chairman, I rise in opposition to this amendment. Many of the reasons for opposing this amendment have already been very well stated. I just want to make the point again that this amendment is totally unprecedented. The proponents of this amendment cannot point to a single impeachment proceeding in the history of our Republic over two centuries in which a procedure such as this was utilized. If I am wrong about that and you

have an example, precedents for this type of process that is recommended here with time limits, and requiring there be a determination of what an impeachable offense is in advance of the consideration of the facts, tell me what the precedent is.

Mr. CONYERS. Will the gentleman yield?

Mr. CANADY. I will be happy to yield to the gentleman.

Mr. CONYERS. The reason is no proceeding has ever had an Independent Counsel before now.

Mr. CANADY. Okay. Again, I still ask for a precedent. I think there will be silence on that question, because there is no such precedent. This proposal is totally without support in the history of the impeachment process of the country. I think it would be a serious mistake for this committee to adopt such a novel, untested approach to dealing with the great matters that are before us.

On this issue of whether we should consider and define what an impeachable offense is, in advance of looking at what conduct was actually involved and what offenses the President may be guilty of, I would refer to what the New York Times has recently said.

The New York Times has endorsed the approach that the chairman of the committee has suggested to us and says this: "The natural contours of an impeachment inquiry accommodate two converging avenues of work; one dealing with the evidence, the other with the constitutional question of what constitutes an impeachable offense. The Judiciary Committee has wisely chosen to consider these in tandem, with the expectation that each inquiry will inform the other.

As Mr. Hyde has already indicated, at Mr. Hyde's request, the Subcommittee on the Constitution will soon conduct a hearing on the background and history of the impeachment process. The purpose of that hearing will be not to frame a fixed definition of impeachable offenses, but to provide further information that will help inform the judgment of each member as we consider any offenses the President may have committed and determine whether the President's conduct involved high crimes and misdemeanors.

That is a process that we should go through. That is the way the process has worked in the past, although I will say that in fact we are going beyond and taking extra steps here by actually holding a hearing on the subject.

In the Nixon case, there was no such hearing. There was not a hearing on what constitutes an impeachable offense and the background and history of impeachable offenses. Instead, the staff prepared a report.

I want to clear up one error that has been repeated time and time again in our deliberations. This goes back to an earlier meeting and a motion that was made by the minority. It has been suggested that in the Nixon case, the House of Representatives, on August 22nd, adopted a definition of "impeachable offenses." That is simply untrue. There is no support for that conclusion.

What the House did on August 20th, which was at the end, at the end of the whole process in the Nixon case, what the House did on that date was to simply accept the report of the committee for printing in the Congressional Record. There was no debate, not a word of debate.

So the notion that somehow——

Ms. WATERS. Would the gentleman yield?

Mr. CANADY. If I have time, I would be happy to yield. I would like to finish this.

There was no debate. Let me read what was said after the vote on that. "Mr. Speaker, in order to make it perfectly clear, the vote by which the House just accepted the report of the committee on the Judiciary was simply the formality of accepting it, and in no way suggesting their approval or disapproval of the contents. The procedural acceptance of the report was for the purpose of printing it in the record, and no explanation or debate was possible since at least 400 members of the House had no knowledge of its complete contents and recommendations, because the report had not been previously reported."

Mr. HYDE. The gentleman's time has expired.

Mr. CANADY. The record needs to be set straight on that.

Mr. SCOTT. Mr. Chairman, I ask unanimous consent that the gentleman be given an additional minute.

Mr. HYDE. With reluctance, the gentleman is recognized for another minute.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. CANADY. I yield to the gentleman.

Mr. SCOTT. As your counterpart on the Constitution Subcommittee, can you tell me when our subcommittee will be meeting, and whether or not it would make more sense to have that hearing before we launch an inquiry into impeachment?

Mr. CANADY. I believe the House should move forward as an impeachment inquiry. As part of that process, we will consider the background and history of impeachment. That is the purpose of the hearing. We hope to have that at the earliest possible time, consistent with having the people there who can give us the most thoughtful analysis of the questions before us.

Mr. HYDE. The gentleman's time has expired.

The gentleman from Massachusetts, Mr. Delahunt.

Mr. CONYERS. Would the gentleman yield?

Mr. DELAHUNT. Yes, I yield.

Mr. CONYERS. We have had our Constitutional Committee chairman and the ranking member discuss subcommittee hearings, but ladies and gentlemen, the subject of what constitutes impeachable conduct is one of such magnitude that to let that reside in the small number of members within the committee would be something that I would be derelict if I didn't point out. That has to be handled at the full committee level, because it goes to the heart of the Boucher amendment, and it goes to the depth of our argument that there be constitutional analysis as we move along with all of these facts that have been piled on.

I would ask both my ranking member and the chair of the subcommittee to please consider, along with myself and Chairman Hyde, that those hearings be elevated and be made a part of the full committee proceedings, please. I thank Bill for his indulgence.

Mr. DELAHUNT. Reclaiming my time, Mr. Chairman, I just want to——

Mr. HYDE. Mr. Delahunt, will you yield to me for just a second? I just want to respond to the gentleman.

Mr. DELAHUNT. Of course, I yield to the Chairman.

Mr. HYDE. I gently disassociate myself with the request that the whole committee conduct this symposium. I would just as soon let the Constitution Subcommittee do it, although you and I can attend if we want.

Mr. DELAHUNT. Thank you, Mr. Chairman.

I just wanted to note an observation by, I think it was Mr. Sensenbrenner, when he suggested that the adoption of this resolution would stall the process. I don't think we really have a process right now to stall. But the intention of those of us who have cosponsored this resolution is an attempt to expedite, to be expeditious, and at the same time to be deliberative and thorough.

What we are trying to do here is clarify and define what the issues are before this committee. I think we have to go back to the resolution that got us here in the first place, H.R. 525. I am going to read briefly:

"That the Committee on the Judiciary shall review the communication received on September 9th to determine whether sufficient grounds exist to recommend to the House that an impeachment inquiry begin."

We are limited to that communication. This is not Watergate, where there was a need for the expenditure of substantial investigative resources and time to bring it to closure.

What the American people want is to bring this matter to closure. We know what the issues are before us. We have heard them today. They have been alluded to. I am certainly not content with the quality of the evidence as presented by Mr. Starr, but there is no need to make the comparison with Watergate. We can get it done in an expeditious fashion, and move on. Whatever our conclusions may be, we then benefit the American people by moving on with the business of the country.

I think the best evidence of the chaos that we are now experiencing is the testimony of the majority counsel. As my friend from Massachusetts observed, counsel has already dismissed two counts and added four others. What we are doing, without defining and having a clear understanding, is making the process an interminable one.

Nobody here wants this to go on for 18 months. If we look at what we are here for, if we examine the resolution, we can get the job done. I urge passage of the Boucher resolution.

Mr. HYDE. The gentleman from Tennessee, Mr. Bryant.

Mr. BRYANT. Thank you, Mr. Chairman.

I have a great deal of respect for the principal proponent of this amendment, and join in on what he says very often, but I have to disagree with him on this occasion. I think it has been well expressed in other parts of this country about hamstringing the committee by placing artificial time periods on it and limiting the scope. I think it indeed is a very bad idea.

I think if we all step back in the calm and look at this, we will realize that we all want to conclude this just as soon as possible. We hear the American people out there complaining about this, too. But on the other hand, there are a lot of people out there that want to see justice done in this case in a fair way. We do not want to rush to a judgment.

In a funny kind of way, too, I think the Thompson subcommittee showed that sometimes when you set deadlines, you actually give incentives to people to slow things down. It is like they are going to run the clock out, almost. I know people up here would not do that, but it is possible that that could be a built-in situation where you have set these artificial deadlines.

We have talked about the Rodino model. I have reviewed some of the legislative history about this and some of the reports. I would agree with our chairman, that it appears to me that we have to continue gathering the facts and getting everyone's story on this, and then put it in the context of this presidency, and determine if it is an impeachable offense. But we have been asked early on to try to follow that precedent. I think we are doing it in this manner.

In terms of the deadline, I looked back to actual votes that occurred in that hearing in terms of setting artificial deadlines. There were actually, as I read this, three efforts to set a final report date of April 30, 1998. That failed 14 to 23. There was an effort to require an interim report by April 30, 1974. That failed 12 to 24. There was an amendment to set a deadline by which the subpoena authority expired. That failed 7 to 29.

So if we are going to use the Rodino model, let us look at things like this, and obviously they thought it was a bad idea back in 1974. That seems to be our precedent.

With that in mind, I am going to join my colleagues in asking everyone to oppose this amendment.

Mr. HYDE. The gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Mr. Chairman and members, I know that the gentlelady from Texas has a comment.

Ms. JACKSON LEE. And Virginia.

Mr. CONYERS. How many people here have comments? Five.

Mr. HYDE. Okay. Order pizzas.

Mr. CONYERS. In that case, I know I am not, obviously, the closing speaker on our side. I would point out to my colleagues that there is another alternative fallback amendment that the gentleman from California——

Mr. FRANK. No.

Mr. CONYERS. Okay. What we are going to do now is, first of all, let me ask unanimous consent to have a 3-page letter written by 13 law scholars to the Speaker of the House dated October 2, 1998, I ask unanimous consent that it be included in our record.

Mr. HYDE. Without objection, so ordered.

[The information follows:]

October 2, 1998

Hon. NEWT GINGRICH, *Speaker,*
United States House of Representatives.

DEAR MR. SPEAKER: Did President Clinton commit "high Crimes and Misdemeanors" for which he may properly be impeached? We, the undersigned professors of law, believe that the misconduct alleged in the Independent Counsel's report does not cross the threshold.

We write neither as Democrats nor as Republicans. Some of us believe that the President has acted disgracefully, some that the Independent Counsel has. This letter has nothing to do with any such judgments. Rather, it expresses the one judgment on which we all agree: that the Independent Counsel's report does not make a case for presidential impeachment.

No existing judicial precedents bind Congress's determination of the meaning of "high Crimes and Misdemeanors." But it is clear that Members of Congress would

violate their constitutional responsibilities if they sought to impeach and remove the President merely for conduct of which they disapproved.

The President's independence from Congress is fundamental to the American structure of government. It is essential to the separation of powers. It is essential to the President's ability to discharge such constitutional duties as vetoing legislation that he considers contrary to the nation's interests. And it is essential to governance whenever the White House belongs to a party different from that which controls the Capitol. The lower the threshold for impeachment, the weaker the President. If the President could be removed for any conduct of which Congress disapproved, this fundamental element of our democracy—the President's independence from Congress—would be destroyed.

It is not enough, therefore, that Congress strongly disapprove of the President's conduct. Under the Constitution, the President cannot be impeached unless he has committed "Treason, Bribery, or other high Crimes and Misdemeanors."

Some of the charges laid out in the Independent Counsel's report fall so far short of this high standard that they strain good sense: for example, the charge that the President repeatedly declined to testify voluntarily or pressed a debatable privilege claim that was later judicially rejected. These "offenses" are not remotely impeachable. With respect, however, to other allegations, the report requires careful consideration of the kind of misconduct that renders a President constitutionally unfit to remain in office.

Neither history nor legal definitions provide a precise list of high crimes and misdemeanors. Reasonable people have differed in interpreting these words. We believe that the proper interpretation of the Impeachment Clause must begin by recognizing treason and bribery as core or paradigmatic instances, from which the meaning of "other high Crimes and Misdemeanors" is to be extrapolated. The constitutional standard for impeachment would be very different if, instead of treason and bribery, different offenses had been specified. The clause does not read, "Arson, Larceny, or other high Crimes and Misdemeanors," implying that any significant crime might be an impeachable offense. Nor does it read, "misleading the People, Breach of Campaign Promises, or other high Crimes and Misdemeanors," implying that any serious violation of public confidence might be impeachable. Nor does it read, "Adultery, Fornication, or other high Crimes and Misdemeanors," implying that any conduct deemed to reveal serious moral lapses might be an impeachable offense.

When a President commits treason, he exercises his *executive powers;* or uses information obtained by virtue of his *executive powers,* deliberately to aid an enemy. When a President is bribed, he exercises or offers to exercise his *executive powers* in exchange for corrupt gain. Both acts involve the criminal exercise of presidential powers, converting those awful powers into an instrument either of enemy interests or of purely personal gain. We believe that the critical, distinctive feature of treason and bribery is grossly derelict exercise of official power (or, in the case of bribery to obtain or retain office, gross criminality in the pursuit of official power). Nonindictable conduct might rise to this level. For example, a President might be properly impeached if, as a result of drunkenness, he recklessly and repeatedly misused executive authority.

The misconduct of which the President is accused does not involve the derelict exercise of executive powers. Most of his misconduct does not involve the exercise of executive powers at all. *If* the President committed perjury regarding his sexual conduct, this perjury involved no exercise of presidential power as such. *If* he concealed evidence, this misdeed too involved no exercise of executive authority. By contrast, *if* he sought wrongfully to place someone in a job at the Pentagon, or lied to subordinates hoping they would repeat his false statements, these acts could have involved a wrongful use of presidential influence, but we cannot believe that the President's alleged conduct of this nature amounts to the grossly derelict exercise of executive power sufficient for impeachment.

Perjury and obstructing justice can without doubt be impeachable offenses. A President who corruptly used the Federal Bureau of Investigation to obstruct an investigation would have criminally exercised his presidential powers. Moreover, covering up a crime furthers or aids the underlying crime. Thus a President who committed perjury to cover up his subordinates' criminal exercise of executive authority would also have committed an impeachable offense. But if the underlying offense were adultery, calling the President to testify could not create an offense justifying impeachment where there were none before.

It goes without saying that lying under oath is a serious offense. But even if the House of Representatives had the constitutional authority to impeach for any instance of perjury or obstruction of justice, a responsible House would not exercise this awesome power on the facts alleged in this case. The House's power to impeach, like a prosecutor's power to indict, is discretionary. Thus power must be exercised

not for partisan advantage, but only when circumstances genuinely justify the enormous price the nation will pay in governance and stature if its President is put through a long, public, voyeuristic trial. The American people understand this price. They demonstrate the political wisdom that has held the Constitution in place for two centuries when, even after the publication of Mr. Starr's report, with all its extraordinary revelations, they oppose impeachment for the offenses alleged therein.

We do not say that a "private" crime could never be so heinous as to warrant impeachment. Thus Congress might responsibly determine that a President who had committed murder must be in prison, not in office. An individual who by the law of the land cannot be permitted to remain at large, need not be permitted to remain President. But if certain crimes demand immediate removal of a President from office because of their unspeakable heinousness, the offenses alleged against the President in the Independent Counsel's referral are not among them. Short of heinous criminality, impeachment demands convincing evidence of grossly derelict exercise of official authority. In our judgment, Mr. Starr's report contains no such evidence.

Sincerely,

JED RUBENFIELD,
Professor of Law, Yale University,
BRUCE ACKERMAN,
Sterling Professor of Law and Political Science, Yale University,
AKHIL REED AMAR,
Southmayd Professor of Law, Yale University,
SUSAN BLOCK,
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PAUL D. CARRINGTON,
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JOHN HART ELY,
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Note: Institutional affiliations for purposes of identification only.

Mr. CONYERS. Thank you. May I keep firmly fixed, and every member on both sides of the aisle, on the point that for us to let a subcommittee, as distinguished as it may be, handle the constitutional question of what is an impeachable offense, that is a matter that every single one of the 37 of us have to be in attendance. If we are going to expand this subcommittee to everybody, this isn't something that you leave to any of your colleagues, ladies and gentlemen. This goes to the very heart of the matter.

Now, let me just make several points on the Boucher alternative. The first is that there are no arbitrary time limits that will either rush nor stall the search for the truth. I refer you to section 4 in

this very carefully crafted amendment, which says that a report to the House of Representatives may be made by the committee requesting an extension of time, so that no one here can say they voted against this provision because it was fixing time. It says, "request an extension of time."

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I tried to make the point before, with respect to the gentleman from Virginia, when he had the time, that in a diabolical way, the request to the House of Representatives is in itself a stall, even unintentionally brought about; and more diabolically, you give the chance to the majority to determine even a bigger lapse of time and a bigger stall, if we were so inclined, to convene the House of Representatives or to bring this to the attention of the full House sometime in the next year.

Mr. CONYERS. Let me argue on behalf of the Speaker of the House that I don't think he would do that, okay?

I think that this body would give this committee additional time if they so chose. I think the authors of this amendment believe that sincerely.

Now, all we are asking, in the alternative, is that we limit the matter to what has been referred by Independent Counsel; namely, the Lewinsky matter. Nothing else is mentioned in the 37 boxes, the tens upon tens of thousands of papers. That is what we are here for, and that is what our job is. We are limited to Lewinsky at this time.

Now, with regard to the facts and the law and which comes first, please, we have all the facts before us. The facts have been here. The handful of witnesses, factual witnesses, most have been before the grand jury, including the President of the United States, one, two, three, four, five, six times. This is not a search for facts, notwithstanding that there may be honest disagreements about the facts. We are not looking for new facts.

So to begin this proceeding with an examination of existing constitutional scholars' interpretations of what are high crimes and misdemeanors is absolutely appropriate. All we are asking is that we do it in this fashion. Ninety-nine percent of the facts are known.

Might I just remind you that the Congress, under the present Speaker, processed one-half of the Contract With America within 100 days, 100 days, which included several constitutional amendments, radical overhauls of the systems of criminal and civil justice and administrative procedure.

So to suggest that this is either stalling or speeding is a misconception, and I urge my colleagues on the Republican side to please search your consciences and make certain that you understand the importance and the seriousness of the Boucher alternative amendment.

Thank you for your time, Mr. Chairman.

Mr. HYDE. The gentleman from California, Mr. Rogan.

Mr. ROGAN. Mr. Chairman, thank you. First let me express my profound admiration and respect for the author of this particular amendment. I join in the comments of my other colleagues in so doing.

Mr. Boucher is one whose approach to our work on this committee is such that when I do find myself taking issue with a proposal of his, I do so with great caution, because I am so impressed and have such great respect for him.

I must do so, however, Mr. Chairman, in this particular case. A few minutes ago, I took a break to fill my coffee cup in the back room. As I watched these proceedings on C-Span, I noticed that there has been a tendency in the television coverage to do a shot of the painting that we have above us of Chairman Rodino. One of the staff members told me that that has been a constant throughout the day.

I understand this motivation, because the presence of Chairman Rodino and the spirit in which he brought fairness to these hearings 24 years ago is such that it is a perfect reminder for this committee as to how we should proceed.

So there is a reason why, when these same type of limitations were suggested by the minority during Watergate, Chairman Rodino rightfully said that "the chairman recognizes, as the committee does, that to be locked into a time limit would be totally irresponsible and unwise."

Why is that significant, Mr. Chairman? It is significant because if we set an artificial deadline for this inquiry, then essentially this committee is at the mercy of those over whom we might wish to have evidence produced. They can use dilatory tactics, they can use obstructionist tactics, they can use delaying tactics to preclude us from being able to fulfill our charge.

Chairman Rodino obviously understood that by allowing the committee to set the perimeters for a deadline, the committee kept control of the proceedings, and did not surrender them to external forces.

I was struck by the comments of my dear colleague, Ms. Lofgren, when she related the example of Chairman Rodino giving his word 24 years ago that although he would not accept an artificial deadline, he would pledge to proceed in as expeditious a fashion as possible.

Ms. LOFGREN. Will the gentleman yield? Because he actually said April 30th.

Mr. ROGAN. If I may finish my commentary, then I would be happy to yield to my friend.

I found that instructive, Mr. Chairman. We know from this weekend's news reports that our current chairman has also given his commitment, not just to the committee, but to the country, that he would proceed in as expeditious a manner as possible. That to me is perhaps the most sound guarantee that this committee could ever have, and I daresay that no member of this committee who has worked with our chairman and who knows our chairman would take issue with that pledge.

Mr. HYDE. The gentleman's time has expired.

Mr. Meehan.

Mr. MEEHAN. Thank you, Mr. Chairman.

Mr. Chairman, we have heard a lot from the other side about precedent that has been set: the precedent set under Watergate, the precedent set under Chairman Rodino. The reality here is that there hasn't been any precedent at all in this case. The document

dump in this case, where we have an Independent Counsel, who by the way spent 4½ years in investigation, submits a report to this Congress and this committee, and that report is put out in public before we even see it. Unprecedented.

To take the 3,000 pages, included among them secret grand jury testimony, and dump that out to the public before we have had a chance to thoroughly go over that information, is totally unprecedented. The first document was released in Watergate 7 weeks into the formal inquiry. So it has been unprecedented. You cannot retroactively say that we are going to follow precedent that we established with Watergate. It can't be done retroactively.

The Democratic alternative simply says that the first thing we need to do is ascertain a constitutional standard for impeachment based on the fact that we know—now we have to admit we already know basically what the facts are here.

We have the President, who has been under grand jury testimony for 5 hours' worth of testimony on every major network in America. We basically know this is a case that is about a sexual relationship the President had with Monica Lewinsky, and whether or not there was an effort to hide that or cover it up. That is what essentially this is going to come down to.

So this notion that there has been a precedent set is ridiculous, in my view. We have already thrown all the precedents out the window. The question is, can we take the facts as we all understand them and apply them to a constitutional standard about what is an impeachable offense and determine whether the facts, as we know them, rise to the level of high crimes and misdemeanors?

That is the first step we would undertake. It is a process that makes sense, it is a process that is constitutional, and under the circumstances, I believe that it is in the best interests of the country.

And to think that whatever facts we don't know in this case—and I have heard members talk about and the majority counsel talk about how and whether or not the President touched Monica Lewinsky, and whether that is consistent with his civil and criminal deposition. I cannot believe that we need to make comparisons to 18- and 16-month impeachment inquiries, and we are going to conduct that type of an inquiry here, and put this country through that, to make determinations about how the President may or may not have touched a woman during a sexual relationship that he shouldn't have had.

It seems to me we know the facts. The facts are on the table, and they are before the American people. Let's determine whether those facts constitute high crimes and misdemeanors. I think we could do that within a short period of time, as suggested by this amendment. I hope that the majority will look at this amendment and adopt this amendment. I yield back the balance of my time.

Mr. HYDE. Mr. Hutchinson.

Mr. HUTCHINSON. Mr. Chairman, I rise in opposition to this substitute, but I also want to acknowledge the constructive manner in which it is offered. I appreciate the consultations with my Democrat colleagues. I think that they are expressing something in this substitute that many people are concerned about; but in this case,

the chairman has indicated and it is certainly my desire, that we proceed through this inquiry expeditiously, fairly, and independently to come to a conclusion. I believe that we can do that. We all want this to end, but it must be done the right way.

In looking back over the Watergate proceedings, the members of this committee had the same type of debate. My colleague, Mr. Pease, from Indiana, handed me a New York Times article entitled, "House Impeachment Panel Faces Split on Procedure." So the debate we are having is very similar to the debate that was conducted back during the Watergate proceedings, and in fact, the senior Republican member, Representative Edward Hutchinson of Michigan—and he is no relative of mine—he raised the same argument that some Democrats are raising now. He said that the issue, the threshold question of setting a deadline for the committee, needs to be answered before we proceed with the investigation.

That was the case made by the minority then, and Mr. Hutchinson was wrong then; but this Mr. Hutchinson is right now, that we should proceed on. It is interesting how this issue was resolved at that time. The chairman, Chairman Rodino, assured the committee that he would proceed expeditiously and set a goal as to when it would be done. And the minority said, "Well, put it in writing." He said, "Take my word for it."

They went to the floor of the House and in that debate, a Republican, Mr. Rhodes, asked about this and received the assurance of the Democrat chairman. Mr. Rhodes responded, "The gentleman's word is good with me, and I certainly intend to accord him the credibility which he has earned, and he has earned it." That is straight from the Congressional Record.

What a marvelous fashion they worked together to develop bipartisan support on the floor. I certainly think Mr. Hyde and his commitment deserves the same credibility that the previous chairman, Mr. Rodino, did at that time.

My colleague from Massachusetts is arguing that we know the facts in this case. If you just look at the one point of obstruction of justice, the obstruction of justice charge is very serious, in my judgment. I think it is an impeachable offense, whether it occurred during Mr. Nixon's tenure or any other president's.

But the facts are in dispute on this. The big issue is whether Betty Currie, in going and getting the gifts, the evidence under subpoena, and hiding them under her bed, was acting on her own, was acting at the direction of Ms. Lewinsky, or was acting at the direction of the President of the United States.

The factual determination on that issue is critical. It depends on who you believe and how the circumstantial evidence is evaluated. I believe it makes sense that as we go through this process, we have to get to the facts, and an inquiry is the way that we do this.

I believe the substitute that has been offered in good faith is the wrong direction to go because it has the potential for extending all of this. If there was one court challenge to the evidence, if there was one obstruction, we would not be able to complete it in a timely fashion. It would require us to go back to the floor of the House to extend it all. I do not believe we could complete it in a timely fashion.

Mr. Chairman, I believe that the course that you have undertaken is wise, it is appropriate, and it is consistent with the Watergate standard. I recommend to my colleagues that we reject this substitute.

Thank you, Mr. Chairman.

Mr. HYDE. Thank you.

Mr. Wexler.

Ms. JACKSON LEE. Mr. Chairman.

Mr. HYDE. You want to be recognized ahead of Mr. Wexler? That is all right, if Mr. Wexler is amenable.

Ms. JACKSON LEE. I would just like to be recognized or that you realize that we are down at this end. I appreciate it.

Mr. HYDE. I do realize it. I am ever mindful of it. I am happy to recognize you now and unrecognize Mr. Wexler.

Ms. JACKSON LEE. I would not be so unkind to my colleague. Thank you.

Mr. HYDE. Mr. Wexler.

Mr. WEXLER. Thank you, Mr. Chairman. Thank you.

If I may, in the most friendly and respectful way that I know how, I would just first note that I believe that my colleague from Georgia, Mr. Barr and I, are scheduled to be on the show "Crossfire" at 7:30 p.m. In an effort not to ruin the show tonight, I will wait to respond to Mr. Barr's comments earlier until we get on the show. It wouldn't be fair to the program. It is a teaser.

Speaking to the issue before the committee, I think it is fairly clear the choice that we have. On one hand, we can choose the course of the Democratic proposal, which is for me the most prominent part, an inquiry by this committee limited to the allegations contained in the Starr report. It is that simple.

For me the most important thing is that the Democratic proposal says we will inquire into what Mr. Starr sent us. On the other hand, the other alternative apparently supported by the majority, the Republican members of the committee, is to have an inquiry of impeachment by this committee which is not limited to the allegations of the Starr report, but which I think in fairness it would be appropriate to conclude is an inquiry that will include the Starr report, and may include investigation of Whitewater, an investigation of what we call Filegate, and an investigation of what we call Travelgate. It may include an investigation regarding campaign finance alleged abuses. It may include investigation of transfer of technologies to China. It may include many things.

I say so without impugning the motives or suggesting anything other than there is a clear choice: the Democratic proposal which limits our inquiry to the Starr report, or the Republican proposal which, by its very terms, allows investigation into not only the Starr report but almost anything else; in fact, anything else that this committee would deem appropriate to investigate.

When it comes down to that basic denominator, it seems to me that the interests of the American people are better served if this Congress does not go into a series of endless investigations, and we limit ourselves to the terms of the Starr report and the allegations therein in terms of the reference of our question.

That is why I am supporting the Democratic alternative. Thank you.

Mr. SENSENBRENNER. The gentleman from Ohio, Mr. Chabot.

Mr. CHABOT. I know all of us, I am sure my colleagues on both sides of the aisle here listen to their constituents, talk to the people back home. We get a lot of letters and e-mails and phone calls and people stop us in the supermarket. This is something certainly on their minds much. And whether they are supporters of the President or whether they are critics of the President, I think there is one thing they have in common, and that is that they very much would like to get this done right and get it behind us as soon as possible. I agree with that completely.

I listened intently to Chairman Hyde yesterday when he said that he would like to get this done by the end of this year, and I think that is a worthy goal. Perhaps we could get it done sooner than that. But we need to do it right. If we put a definite time, it has to be done by a certain date, the thing that concerns a lot of us is that it would depend on the good faith of this White House, this administration, to come forward, be forthcoming with the facts and with the evidence, and not to delay. A lot of us have some real concerns about that.

Because this is critically important to our Nation, I would hope that we can work together on this as much as possible. We are going to have disagreements between the Republicans and Democrats on occasion, but I think this is something so important to our country that we should work together as much as possible. I hope we will be able to do that.

At this time, I would like to yield to my good friend from South Carolina, Mr. Graham.

Mr. GRAHAM. I thank the gentleman for yielding. There have been two major newspapers' look at both proposals, and they are going to be entered into the record, but I would like to read a little excerpt from the Washington Post.

"The limits that House Judiciary Committee Democrats have suggested imposing on the panel's forthcoming impeachment inquiry are mostly bad ideas that the Republicans are right to resist."

I am not so sure they are all bad ideas. I am just suggesting to you that as we go down the road to finding out what we can do and when we do it, we need to have as much latitude as possible.

But let me suggest instead of the cart before the horse analogy, that everybody right now in my opinion is not seeing the forest for the trees. What happens November 3rd? We are going to have a national election.

Mr. BERMAN. Mr. Chairman, I cannot hear the speaker.

Mr. SENSENBRENNER. The committee will be in order. The point of order that has been raised by the gentleman from New York is correct. If the staff would kindly stop conferring, the gentleman from South Carolina is so soft-spoken, we certainly want to hear what he has to say.

Mr. GRAHAM. I have never been accused of that before, but it is nice to hear.

The "forest for the trees" argument goes like this: No matter what resolution we adopt, the best we can hope for, and I think should do, is try to start the fact-gathering process in some way that will withstand historical scrutiny. I want people 30 years from

now to look at our work product and say it wasn't motivated by the November 3rd election. So whatever we begin to do, we have the election to look at.

Once the election comes and goes, this will be a lame duck Congress. I think we should continue our work through the first of the year, but I really believe for the sake of history the best thing we could do would be have a process that goes to the truth as fair and hard as we can get to the truth, but let the next Congress look at our work product and determine if articles of impeachment should be—let the next Congress determine if this thing should be dropped, because right now there are going to be people involved in the process between now and the first of the year that will not be members of the 106th Congress.

So I really believe Chairman Hyde's idea about how to proceed is the best thing we could do right now. Have no time limits. We can talk to every constitutional scholar in the world, we can have a seance to try to find the Founding Fathers' real intent. I don't care what we do between now and the next Congress, let us do it well, make sure it makes sense for the sake of history, and not rush into judgment and have people make decisions that will affect this country for hundreds of years to come when they are in a lame duck status.

So the "forest for the trees" argument simply goes, slow down, do your job right, and let the new group of people do it.

Mr. NADLER. Will the gentleman yield?

Mr. GRAHAM. Yes.

Mr. NADLER. I commend the gentleman for his emphasis on a proper process. I will not ask him about the timetable, because I think that is one discussion.

But given the concern for proper process, don't you find it strange that we have been asked by the House in the resolution under which we are operating that the Judiciary Committee shall review the communication received September 9th from the Independent Counsel to determine whether sufficient grounds exist to recommend to the House that an impeachment inquiry be commenced? Here we are prepared to vote on a recommendation to the House that the inquiry be commenced today without having spent any time looking at any evidence at all.

Mr. HYDE. Mr. Chabot would like to reclaim his time.

Mr. CHABOT. I yield to Mr. Graham.

Mr. GRAHAM. I find it strange that I am agreeing with the Washington Post.

Mr. HYDE. Ms. Jackson Lee.

Ms. JACKSON LEE. Mr. Chairman, thank you very much. Let me add my accolades to Mr. Boucher, Mr. Nadler, Mr. Scott, Ms. Lofgren and Ms. Waters, and join them in what I think is the first concrete effort in which Democrats have joined them in striking the chord for nonpartisanship.

I might too, Mr. Chairman, thank you today for mentioning at least four times the concept of due process. I was attempting a meeting or two ago to secure your support as I offered an amendment which no Republicans voted for, which confirmed that we be guided by the principles of due process and the Fifth Amendment,

but I count as your voicing that expression that we are certainly guided by those provisions. I thank you for that.

Let me also associate myself with the remarks of my ranking member, for I believe that we should join him in asking that all of us attend the Constitution Subcommittee's hearings on such a high and important determination as the constitutional standards.

But let me say as well, there are so many of these fine gentleman that I wish to associate myself with, and certainly Mr. Graham from South Carolina has said something today that I think should be really striking as we debate this issue, and that is the rush to a vote on October 9th. I think the American people really need to sort of understand the parameters in which we work. It is not the parameters set out by the substitute. It is not the parameters of which the chairman has so kindly said that would be followed or would follow, which is to say that he will not limit it or he will limit it if necessary.

But this unnecessary attempt to cast a vote by the House of Representatives on an impeachment inquiry, the very debate we are having today indicates that we are not ready for an impeachment inquiry. Some have said they understand the facts. Others have said, and I associate myself with them, we don't really know the facts.

Let me give you an example why we don't know the facts. One, we have heard over and over again about Ms. Currie's recollection of these gifts under the bed, whether she got called to get them or whether or not Ms. Lewinsky suggested it. There is a disputable fact. The last point that Ms. Currie makes, which was not noted by our esteemed counsel for the Republicans, is even though she said that she might be wrong, it was sort of a guessing answer and suggested that maybe a younger woman like Ms. Lewinsky might have a better memory than hers. But she did not concede the point as to who was the one who initiated calling about the gifts.

The other point that seems to be so much a part of our Republican colleagues' case for lying and perjury is this whole question of whether or not Monica Lewinsky was told to lie or whether or not she was to get a job to keep silent. She indicated in a 302 that no one had forced Lewinsky to sign the *Jones* affidavit before getting a job or no one—she did not stop signing it before getting a job, and Lewinsky never demanded a job from Jordan in return for a favorable affidavit. Neither did the President or Jordan ever tell Lewinsky she had to lie.

We have disputable facts, if anything else. And the very fact of what we are doing today, disputing the facts, arguing constitutional principles, is the very reason why the Republicans' resolution is premature and that the Democratic alternative is in fact the real compromise here, the real extension of Democrats to our Republican colleagues saying to you, join us in this very fair process that does not harness us with Watergate, because we have all been using Watergate for a variety of reasons. I have been using it procedurally on the basis of due process, on the basis of not dumping documents, salacious materials, horrific things on to the Internet. But we cannot be harnessed by Watergate, as you said, because we had the Senate Watergate proceedings, 3 months of constitutional

discussions, and then we proceeded and had a special prosecutor that did not provide an indictment but only information.

I ask my colleagues to look at this in the spirit that it has been offered. It is offered in a compromise because, as you well know, many Democrats have argued the case of why an impeachment inquiry at all? Here this document acknowledges a process by which we can move to that and in a fair manner, and yet gives you an out by suggesting that if we are not finished with our work, Mr. Chairman, we can in fact ask for more time.

I would hope that we here in this room would characterize this alternative not as the Washington Post and New York Times has done, inasmuch as it was written before they saw this alternative, but as it has been presented. Give us, the Democrats, at least the understanding and the agreement, if you read it well, that it is a compromise and an extension of a hand of friendship.

We have a job to do. The Nation is asking us to move on. This gives us, Mr. Chairman, the parameters in which to move on in fairness, in friendship, and collaboration, and understanding the Constitution. I would ask my colleagues to vote for this in a bipartisan and nonpartisan manner.

Mr. HYDE. Taking you up on that, are we ready to vote? Please? The question is being called here.

Mr. FRANK. Question.

Mr. HYDE. I don't want to shut off debate, but I just want to say there are more amendments, there is more time to be consumed. Nobody is saying anything new. They are saying it maybe differently, but I just appeal to your hard hearts.

Who must be heard? I just wanted to see. I am going to, Mr. Buyer. I am just trying to find out who over here. We have Mr. Scott, Mr. Watt, Mr. Rothman and Mr. Barrett. All right. Mr. Buyer, you have 4 to 1 here.

Mr. BUYER. Thank you, Mr. Chairman. Everyone has been referring to this Committee on the Judiciary of the House of Representatives in the 93rd Congress, prepared by the staff under then-Chairman Rodino, and Mr. Chairman, you even earlier had referred to it. But there is a line in here that you did not cite that I find interesting, that says as the factual investigation progresses, it will become important to state more specifically the constitutional, legal and conceptual framework within which the staff and the committee will work. I think that is extremely important.

The other thing I want to note here, I suppose I will take exception with Mr. Conyers, who said all the facts are already known. I would disagree with that. I think there are still facts that are left for us to inquire about.

There is also an area which no one is really touching, and the two presentations given to us by the majority counsel and minority counsel did not touch the area really on misdemeanors in office. I raised it during my opening statement because I am greatly concerned that an impeachment, though, can be based on noncriminal conduct. That is possible. It can occur when the impeachable offense can also be something that is not necessarily indictable but serious misbehavior which may be considered as coming within the category of a high crime and misdemeanor.

So it appears that no one here today wants to talk about the President in his role as Commander in Chief. I suppose nobody wants to talk about that because it was purely an act that occurred in the Oval Office when he was speaking with Congressman Sonny Callahan.

When you think of the phone conversation President Clinton had with Congressman Callahan, the President called Sonny in order to get him, as chairman of the Appropriations Subcommittee on Foreign Operations, to vote in favor of funding the peacekeeping mission in Bosnia. This was literally a matter of life and death for American troops and the Bosnian civilians, and a supreme test of our ability to handle the international crisis. What is remarkable is that it is alleged that is exactly the same time the President was eating pizza as Monica Lewinsky performed oral sex on him.

That is worthy of consideration of a misdemeanor in office, and no one wants to talk about the misdemeanors, as if all we want to talk about is the high crimes. I want to make that point because there is further development of this case. I am very uncomfortable about putting time limits on that, as has been requested by Mr. Boucher's substitute.

At this moment I want to yield to Mr. Goodlatte of Virginia.

Mr. GOODLATTE. I thank the gentleman for yielding. On the issue of what constitutes an impeachable offense, I just want to say that those who are advocating that we need to establish a standard or a clear definition so that we can know whether to proceed with an inquiry are in my opinion very wrong, and there is no precedent for that. The term "impeachment" is already defined. The Constitution states that standard in black and white.

Establishing a fixed standard for impeachable offenses was not done in 1974. The Watergate Committee wisely sought to fully understand all the relevant facts without first agreeing on a detailed definition. And here is why. The duty of the House of Representatives ultimately is to decide whether to pass articles of impeachment. Each member of the House at that appropriate time is charged with determining for him or herself whether the conduct of the President is bad enough to warrant impeachment. It a matter of each member's own determination and conscience. In fact, Chairman Rodino never held one hearing on the issue of what constitutes an impeachable offense. If this committee devised a fixed standard or definition, we would be usurping the prerogatives of the members of the House.

Even if a majority of this committee agreed on such a definition, those committee members who disagreed with it would not be bound by the definition. They shouldn't be. Their allegiance isn't to the opinion of the colleagues sitting next to them, it is to the Constitution. Even if the Judiciary Committee could agree on one definition, the full House of Representatives would not and should not be bound by such a definition for the same reason.

The allegiance of each member of this body is to the Constitution, and if in good conscience a member couldn't agree with a committee's definition, he or she would be obligated to reject it. We simply can't tell the House what is or is not an impeachable offense.

I yield back.

Mr. HYDE. The gentleman from Wisconsin, Mr. Barrett.

Mr. BARRETT. Thank you, Mr. Chairman. I actually don't think we are as far apart as everybody seems to indicate. Frankly, I don't even think that these two competing motions are mutually exclusive. I think if we had some cool heads sit down and talk back and forth about the differences, I honestly think we would be able to work out the differences.

As I said, I am a new member of this committee but I have got some battle scars. I come from the Government Reform Committee chaired by Chairman Burton. That committee, frankly, has very little respect. I don't want to waste my time, I don't want to waste your time, the country's time, unless we have the respect of the country, and I think that that means that we have to have credibility. And I want to just run through several portions of this competing, if you will, motion, and explain to you why I think they are important.

There has been a lot said on standards. I am not going to touch on the standards. I want to touch on the focus, why we feel it is important to have this focus. We have received the mandate from the House. The mandate from the House was based on the Starr report.

It is true that the Rodino-Watergate resolution was more unlimited, but the key difference, of course, is that it didn't have a report from a special counsel. Now we have a report from a special counsel, so the majority of the work has been done, and it is important for us to say let's concentrate on those efforts. I voted to release that report. I think we should be using that as our document.

Now, what is my concern? Again, coming from the Government Reform Committee, it seemed to me that every time there was an article in the newspaper critical of the Clinton administration, the next week we would have a new hearing on those allegations. There was no focus. It was "What can we throw at the President of the United States and hope something sticks?" Little if anything stuck, but that was the concern, and I think that that is a legitimate concern.

And obviously if the special prosecutor comes back with more recommendations, I don't believe for a minute that we will ignore those, nor should we. So I think we can come up with language that says we are going to focus on the Starr report and if we get additional recommendations from Kenneth Starr, that we would look at those. That is something that I think most people here would agree with.

Let's talk about the time. From my perspective, this is a target date. It is different from the Senate. I have heard several members talk about the Senate. We can't get hung up like the Senate, because they have the 60-vote problem. We don't have the 60-vote problem right here. If you want us to continue, we are going to continue. So that argument is out the window.

What is my concern? I have heard the reference to the process taking 19 months for Watergate, 16 months for Judge Hastings, 13 months for Judge Nixon. I hear that, my head starts to spin, because my wife is pregnant and is due January 11. I want this resolved by January 11, if for no other reason, I would like to be home to see my baby being born.

Mr. HYDE. Without objection, so ordered.

Mr. BARRETT. Thank you, Mr. Chairman. But we can do this. We can do this by then. But the layout, there is this possibility of 19, 16, 13 months, my God, that would be the worst thing for the country.

The country feels that Washington, D.C., right now is in suspended animation, and it is, and we have a duty to set a target. And, if we are wrong, and I understand the concerns that have been raised, if you feel it is going to slow us down by having to go back to the House, there is a way to work around that. We can do it within the committee. But the American people, I believe, expect finality in this proceeding, and, I think, it is our duty to try to provide it.

The third thing I want to talk on real quickly is the options. I think that this motion has a good section on the options, and this is something that I think we have to look at. Again this morning I referred to Presidents Ford and Clinton. I think it is important that we set out some possible options for us to go forward to. If we do that, I think you are going to get a lot of votes, and, I think, that is what we should be doing.

I think we can take the day off. The good chairman and Mr. Conyers can sit down, come back and have a bipartisan vote, take it to the House for a bipartisan vote in the House. That is good for the country. The worst thing for this country is to have this be a partisan, polarized mechanism. There might be some people who want to play Russian roulette in terms of the November 3rd election, but that is not what is right for this country.

What is right for this country is to try to have us work together. I think I have confidence in all of the people on this committee, the 37 of us can show the leadership how to do that. We don't have to listen to somebody else. We should listen to our consciences and do this. I think we will get it done.

Mr. FRANK. Mr. Chairman, if the gentleman will yield, I think the gentleman has done an excellent job of making clear what is at stake here. First of all, this comes after a 4-year-plus Independent Counsel investigation, and that invalidates the previous comparisons. We don't have to do a lot of the independent fact-finding. We have an Independent Counsel, and that is very different from previously.

Secondly, he focuses quite sensibly on the question of scope. Timing is really a function of scope. If you are going to go into the Lewinsky situation and Whitewater and the FBI files and the Travel Office and whatever filters through the wall from the Government Reform Committee next door and campaign finance and China, all things which have been the subject of multiple hearings and investigations, then you need 19 months. You might need 19 years.

If you function by focusing on the Starr report, where there has already been an extensive degree of fact-finding, then the time problem becomes much less of a problem. That is indeed what we ought to be doing. So I think the gentleman has brought a great deal of clarity to the issue.

Mr. HYDE. The gentleman's time has expired.

The gentleman from North Carolina, Mr. Coble.

Mr. COBLE. I am going to put a different spin on this. I promise you that red light will not illuminate on my watch. I will finish before my 5 minutes.

I just came from the anteroom a few minutes ago, folks, and at least one reporter gave us high marks today. He commended us for the thorough, deliberate manner in which we have conducted ourselves. I think some people may have come here this morning, Mr. Chairman, expecting all the trappings of the commencement of the Third World War, and it hasn't developed. I think it has been a very evenhanded day.

Now, much has been said about Watergate and Chairman Rodino. I wasn't here, but I have read about it and been told about it. During the early days of Watergate, it was certainly not harmonious, but as time went on during the waning days, I think harmony and bipartisanship did come into play. So I am not uneasy at all, at the way this is going. But I want to say this: Chairman Rodino did a good job, I am sure, but he does not hold a corner on the fairness market.

Now, at the risk of being accused by some of my colleagues, Mr. Chairman, of being obsequious, I will say this to the gentleman from Illinois, our able chairman.

Mr. HYDE. Go ahead, be obsequious.

Mr. COBLE. I will say it is my belief that not only today, but throughout this entire exercise, Chairman Hyde has conducted himself, as we say in the rural South, not too shabbily. That may be a left-handed compliment.

Mr. FRANK. Did they say shabbily or shabby?

Mr. COBLE. You are finally learning how to interpret my language, Barney.

Mr. Chairman, in conclusion, and I hate to pour water on this harmonious tone I am giving, I think the Boucher amendment is not the sound approach to take. I think it is unprecedented, it would hamstring us, and it would result in us being unfair, maybe to the President and maybe to others.

I told the chairman my red light would not come on, but now I am told the gentleman from Utah would like for me to yield. On my time, the red light is not illuminating.

Mr. HYDE. You are yielding to Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman. I would like to associate myself with the comments of all of my colleagues who have spoken with respect to others of us here, especially Messrs. Rogan and Hutchinson.

Let me say that in my opening statement today I spoke about what is healthy partisan debate. I think we have seen a lot of that today. That means we speak from our own perspective. We argue rather intensively from our own perspective. I don't think anyone following this debate today doesn't see how the party line differs, not the least of which effect of that is the length of the debate.

Frankly, it hasn't been a debate without humor. We have seen the Democratic schizophrenia over the time frame here, and just in the sense of compromise and listening, I would be happy to yield at any time to the gentleman from New York, Mr. Nadler, to have him give us his next position on what I will call the Rodino paradox: which is his refusal to act, Mr. Rodino's refusal to act, in a

vacuum versus why we should act today with what Mr. Nadler I think calls no fact-finding.

The question of all the facts being before us I think has been one of the prominent discussions. I think Mr. Barrett said earlier that we had all of the facts. One thing we haven't really discussed here is that this alternative calls for a 17-day investigation. If you listened to the two presentations by counsel, you know that there are virtually no agreements on facts.

Now, in the last minute or so, let me read a couple of things that I think go to the core of the partisan difference between us and why we need to resolve this I think in a bipartisan fashion.

Some of you may have seen the article called "Bill's Sexscape RX Might Kill Him" by Dick Morris. Morris says it is not the sex that will hurt the President and it is not even the perjury that will hurt the President, but rather it is the systematic attempt or campaign to intimidate, frighten, threaten, discredit and punish innocent Americans whose only misdeeds are the desire to tell the truth in public.

Then, granted, Dick Morris may not be the most credible witness, but this is a man who has been on the inside of White House, who knows how the President works.

Mr. HYDE. The gentleman's time has expired. Does the gentleman ask for additional time?

Mr. CANNON. An additional 2 minutes.

Mr. HYDE. Without objection.

Mr. CANNON. Thank you. Beginning as early as 1990, Clinton surrounded himself, Morris says, with detectives and negative research specialists who collectively have become kind of a secret police force to protect his interests. This is where that term has come from, has emerged in the public debate. Then he lists several people.

"Kathleen Wiley reports her cat was stolen and her tires were slashed on her car. Shortly thereafter, while jogging in the park, a man ran up alongside her, asked about her cat, calling it by name. He said if she wasn't careful, her children would be next.

Former Miss America, Elizabeth Lord Grayson, says she was offered acting jobs through the Hollywood connection, Clinton operative Mickey Kantor, in return for a sexual encounter with Clinton when she was Miss Arkansas."

Now, Mr. Morris goes on with many of these kinds of allegations. I don't know whether there is substance to those, but I think the American people have a right to understand through a considered debate, without a time limit, what is behind these kinds of allegations by a gentleman who is familiar with the White House and the way it operates.

Mr. HYDE. Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman. I wanted to address only one part of the proposed Democratic resolution. I was kind of hoping that some momentum would develop around Mr. Barrett's motion, but apparently that is not going to happen.

The part of the resolution that I really want to emphasize is the standards part, the first part of the Democratic resolution, which it sounds like maybe we will have some hearings about in a subcommittee, maybe we will not. But it does seem to me that an ap-

propriate starting place is to come together on some acknowledgment about what the historical standard in the Constitution is and what the precedents are related to that.

It is not surprising to me that perhaps my Republican colleagues would not like that to happen. Right now it seems to me that the public is making its own set of judgments, morally and politically, without having any standard, and I am sure that is a lot more palatable to a lot of my colleagues than having some standards that everybody in the country could start to think in terms of.

So I guess the point I am making is the difference between having a constitutional inquiry and having a political inquiry. If we are going to have a constitutional inquiry, then there ought to be some basic understanding of what the standards are for that inquiry.

Second, I would point out that the Starr report came over with 11 allegations but not a single word about what he understood the constitutional standard to be. It was almost like yes, here are some facts; you decide whether they are impeachable or not. I am not going to get into talking about what the standards—I don't know how you say they may be impeachable without having some conception of what impeachable standards are in the Constitution.

The third point I would make is that we just saw here today in the presentations of the majority and the minority counsel a wide, wide divergence of opinion about what the impeachment standard is.

Apparently the majority counsel, if I read his standards correctly, starting on page 2, believes that "the President of the United States enjoys a singularly and appropriately lofty position in our system of government, and that he has affirmative obligations that apply to no other citizen." I didn't know that.

Then he goes on to say that "while the President is not above the law or below the law, he is held to a higher standard than any other American." I didn't know that. If that is the standard we are going to apply for impeachment, then we ought to be talking about that before we start marshalling evidence.

Then he goes on to say, "and the circumstances under which the testimony is given are of no significance whatsoever." That is ridiculous. Should we believe if somebody lies about jaywalking, that is an impeachable offense? That is a circumstance under which the testimony is given.

There have to be some basic guidelines that we are operating under, and right now the majority counsel is operating under one set, the minority counsel is operating under one set, the public is operating under a set, and I think this committee has no conception, and I don't know how we bring to bear these facts for ourselves without having a standard.

Mr. HYDE. The gentleman's time has expired.

The Chair would like to recognize Mr. Rothman and then vote. Is that possible? Mr. Scott.

Mr. WATT. Mr. Scott is a cosponsor of this.

Mr. HYDE. Mr. Scott is going to be recognized after Mr. Rothman. Mr. Rothman.

Mr. ROTHMAN. Thank you, Mr. Chairman. I too want to congratulate all the members for the, generally speaking, bipartisan

nature of our discussions, and commend the good will of the discussion here.

But I did, in the sense of bipartisanship, want to point out that when my colleagues on the other side of the aisle point to the New York Times and the Washington Post editorialists as people we should listen to, I will remember that when these editorialists, as they most often do, criticize the policies and judgments of the Republican Party. Unless you want to accept the notion right now that everything they say is true, perhaps we should let ourselves be the judge of what is a fair procedure.

But I did want to ask a couple of questions. Namely, why did Mr. Starr present this report when he did? If there are other matters yet hanging out there that have not—albeit after 4 years and $40 million of expenditures—not yet been resolved, why did he present this referral of 11 allegations and say there might be grounds for impeachment? Why didn't he wait until the rest of these loose ends were tied up?

Well, there are a couple of explanations. One, maybe he thought all the loose ends were tied up and he had nothing else to show the American people after 4 years of work but 11 allegations such as the one he has presented regarding the President's misconduct with Ms. Lewinsky.

If there are other loose ends still out there, then why did he present this report just a few weeks before the election? Is he going to tie those loose ends up a week before the election with another bombshell, or the day before the election with another bombshell? Either way, if we are to accept the good faith of the Independent Counsel that he concluded his work and gave us the results and the end product of his work, then we should rule and resolve the allegations he raised, all 11 of them.

But I agree with my Democratic colleagues and most of America that we should keep our focus on the 11 allegations. There have already been enough congressional committees looking into every single aspect of the President's life, before he was President, when he was Governor, when he was a little boy, after Governor, and now as President. It has been exhaustive, the research and investigation against this President. We ought to focus in on the 11 charges Mr. Starr brought, and if he has more charges, let him bring them forth now. Otherwise, we will have to wonder why he has waited.

I agree with the chairman that the goal should be to resolve these 11 allegations before the end of the year.

Thank you, Mr. Chairman.

Mr. HYDE. The gentleman from Florida, Mr. McCollum.

Mr. MCCOLLUM. Thank you very much. I just want to recapitulate for a minute where we are as we go to vote in a couple of minutes on this amendment by Mr. Boucher et al.

First of all, we have an underlying resolution before us to follow the Watergate rules that were provided for in 1974. Those Watergate rules would provide for really quite a bit of fairness for everybody concerned, at least I certainly think so, and I think most of us who have debated it think so. There has been no dispute of the fact that we would have shared investigative powers of equal nature, shared subpoena powers, the President's counsel could sit in

on any of the proceedings, depositions, et cetera. He could come testify if he wanted to, and so on.

At the time of Watergate there was no limit with regard to how much time was going to be involved, although there was, as Chairman Hyde has expressed, an expression by Chairman Rodino that we ought to expedite this, and a general time frame was sort of mentioned or set. But there was no definition either, I dispute with my colleagues, of what impeachable offenses are.

So what are we dealing with today? The real issues that are presented in the Boucher amendment are suggestions that, instead of simply following the Watergate rules that were what we first thought would be appealing to everybody, and I think still should be, that we have three additional basic differences amended to that.

One is that we set a time frame that is very narrow and very short. One is that we somehow have meetings for a couple of weeks to define what an impeachable offense is. And number three is that we not allow the scope of whatever we look at to be added to unless we come back and have another vote on it. I would suggest that we are not in need of any one of these three, and one of them is very harmful.

But we are not in need of the impeachable decision because, frankly, we are never going to decide among ourselves precisely what it is that is an impeachable offense in the broad, general, abstract sense. The Founding Fathers gave us general guidance, high crimes and misdemeanors plus treason and bribery. What "high crimes and misdemeanors" are, I have a lot of historical context that the Subcommittee on Constitutional Law will go into, I am sure. But even in the Rodino Watergate report, it said on its face there is no fixed standard. We are not going to do that in this report.

Yes, there are some allusions to guidelines you can follow and general precepts that they have to be pretty high offenses, and nobody is going to dispute that. But we waste, in my judgment, a couple of weeks discussing that.

Number two, as far as the scope is concerned, Mr. Chairman, I know that there are a lot of folks that don't want to go beyond where we are, and I hope we don't need to. But I don't think we should be fixed and tied down, and those of us in the majority don't think we should be in this resolution anymore than the Watergate crew was when Mr. Rodino presented his.

Last, but not least, and I think the most important part of this, the fundamentally flawed part of the amendment before us is the one that sets the timetable, 17 days, when we have all of these facts in dispute. Clearly the counsels out here were in dispute today about what the facts were about some of the various alleged offenses. I don't know how long it is going to take. I don't think it is going to take months. I hope the chairman is right, we finish this by the end of the year. I think that is a very admirable goal and one we would all like to achieve. Whether we can or not is not clear.

But one thing is for certain: If we set an arbitrary 17 days, things are going to slip, people are going to try to delay and punt, subpoenas may be ignored. As Mr. Sensenbrenner said earlier, they

will try to appeal whatever it is we do. I think if we have a firm general idea we want to get this done in a reasonable time frame, that is far better than an arbitrary 17 days.

So I would urge the defeat of the Boucher amendment. Let us then, I hope, have a bipartisan vote on the underlying proposal, because I think we do share common thought. And that is, for most of us at least, we believe that some inquiry, some further investigation is warranted to clear up the facts of this matter and resolve this once and for all, to get the overhang over our heads out of the way.

Thank you, Mr. Chairman.

Ms. JACKSON LEE. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I will yield for a question.

Ms. JACKSON LEE. Thank you, Mr. McCollum. I am certainly not going to offer this, but just an inquiry to you: If all of the time lines were removed, do you see merits in the amendment outside of the time line issue?

Mr. MCCOLLUM. No, I have indicated I do not, but I think the most egregious part is the time lines. I think it would be a waste of time to go into the impeachment issue. I don't think we could define it. I don't think the scope should be limited. I think the amendment should be defeated, but clearly the time line is the most egregious part of it.

Ms. JACKSON LEE. I thank the gentleman for yielding. I would just remind the gentleman there is a provision to extend the time line.

Mr. HYDE. Mr. Scott.

Mr. SCOTT. The alternative resolution before us has been referred to as the fairness plan because it is fair, focused, deliberate and expeditious. Mr. Chairman, in order to assure basic due process, the order of the decisions we make is just as critical as the decisions themselves.

This fairness plan ensures we follow a logical order of decision-making that ensures that we avoid putting the cart before the horse. That may be a novel idea, but it begins first with a question, even assuming all the allegations are true, do any of the Independent Counsel's allegations rise to the level of an impeachable offense? If so, we should proceed on those offenses about those and only those offenses.

Mr. Chairman, during Watergate, even if no fixed standard was achieved, there was at least an understanding of what the impeachment process was about. There were no reports from constitutional scholars that the charges lacked merit, and the question wasn't even close.

In addition to being essential to ensuring fairness to the President, there is another reason why we must first determine whether or not there are any impeachable offenses alleged. If in the end some of the allegations fall short of an impeachable offense, we will have needlessly violated the privacy of innocent people, embarrassed them, ruined their lives, people who are accused of no crimes and have committed no offenses.

If there are no impeachable offenses, clearly there is no need for us to go forward, and we should not use the impeachment process just to dig up dirt on the President.

The process proposed in the alternative resolution is focused. We should not be drawing this probe out in open-ended dragnet fashion, and we should ensure that the constitutionality prescribed in presidential impeachment inquiries is focused only upon those matters which have been found to warrant consideration as impeachable offenses. We should ensure that this committee's resources are not expended in a fishing expedition based on bizarre conspiracy theories.

Mr. Chairman, the importance of first appreciating a standard has been emphasized this morning. We now see that some of the Independent Counsel's allegations are apparently so flimsy that the Republican counsel didn't even mention them. What salacious details have been released which relate only to those clearly meritless charges? And now, here we are with new charges blurted out on a television proceeding an hour before we have to act on them without any prior notice. This exposes the lack of deliberation in our consideration of these charges.

Furthermore, what standard was used to add charges or delete charges? We have heard all kinds of different standards today, many without any connection to the Constitution or the history of impeachment proceedings.

Our responsibility under H. Res. 525 was to determine whether sufficient grounds exist to recommend to the House that an impeachment inquiry be commenced. We have obviously not given any deliberation to that question. We have just listened to charges and as soon as we hear the charges, we are ready to vote. We have planned a hearing sometime in the vague future. No date has been set.

Mr. Chairman, these are not the Watergate rules. The proceedings so far have not been bipartisan as it has been represented. And, the document dump was not bipartisan. There was a party line vote on whether to release the documents before the President had an opportunity to see them, a party line vote on whether or not we should simply focus—release just that information relating to impeachable offenses. Those were all party line votes, and despite the fact that by adopting a process which ensures fairness, focus and deliberateness, we also can ensure that we can act expeditiously.

The fairness plan provides for an expeditious process with provisions for reasonable extension if somebody is trying to run out the clock.

Mr. Chairman, the issues before us are relatively straightforward and simple. After all, none of the allegations involve suggestions of wholesale misuse of the FBI to spy on political enemies, the abuse of the CIA to undermine our congressional inquiry or the misuse of the IRS to audit political adversaries as the Watergate inquiry involved. Instead, we are talking about admitted inappropriate sexual behavior and allegations about lying and attempts to cover up that behavior.

Mr. HYDE. The gentleman's time has expired.

Mr. SCOTT. Could I have 30 additional seconds?

Mr. HYDE. Without objection.

Mr. SCOTT. I believe we have a fail-safe way to assure that we meet all of our responsibilities under the Constitution by adopting

a fair, focused, deliberate and expeditious process for discharging those responsibilities, and I urge my colleagues to adopt it.

Mr. HYDE. The question occurs on the Boucher amendment, and the Clerk will call the roll.

The CLERK. Mr. Sensenbrenner.
Mr. SENSENBRENNER. No.
The CLERK. Mr. Sensenbrenner votes no.
Mr. McCollum.
Mr. MCCOLLUM. No.
The CLERK. Mr. McCollum votes no.
Mr. Gekas.
Mr. GEKAS. No.
The CLERK. Mr. Gekas votes no.
Mr. Coble.
Mr. COBLE. No.
The CLERK. Mr. Coble votes no.
Mr. Smith.
Mr. SMITH. No.
The CLERK. Mr. Smith votes no.
Mr. Gallegly.
Mr. GALLEGLY. No.
The CLERK. Mr. Gallegly votes no.
Mr. Canady.
Mr. CANADY. No.
The CLERK. Mr. Canady votes no.
Mr. Inglis.
Mr. INGLIS. No.
The CLERK. Mr. Inglis votes no.
Mr. Goodlatte.
Mr. GOODLATTE. No.
The CLERK. Mr. Goodlatte votes no.
Mr. Buyer.
Mr. BUYER. No.
The CLERK. Mr. Buyer votes no.
Mr. Bryant.
Mr. BRYANT. No.
The CLERK. Mr. Bryant votes no.
Mr. Chabot.
Mr. CHABOT. No.
The CLERK. Mr. Chabot votes no.
Mr. Barr.
Mr. BARR. No.
The CLERK. Mr. Barr votes no.
Mr. Jenkins.
Mr. JENKINS. No.
The CLERK. Mr. Jenkins votes no.
Mr. Hutchinson.
Mr. HUTCHINSON. No.
The CLERK. Mr. Hutchinson votes no.
Mr. Pease.
Mr. PEASE. No.
The CLERK. Mr. Pease votes no.
Mr. Cannon.
Mr. CANNON. No.

The CLERK. Mr. Cannon votes no.
Mr. Rogan.
Mr. ROGAN. No.
The CLERK. Mr. Rogan votes no.
Mr. Graham.
Mr. GRAHAM. No.
The CLERK. Mr. Graham votes no.
Mrs. Bono.
Mrs. BONO. No.
The CLERK. Mrs. Bono votes no.
Mr. Conyers.
Mr. CONYERS. Aye.
The CLERK. Mr. Conyers votes aye.
Mr. Frank.
Mr. FRANK. Aye.
The CLERK. Mr. Frank votes aye.
Mr. Schumer.
Mr. SCHUMER. Aye.
The CLERK. Mr. Schumer votes aye.
Mr. Berman.
Mr. BERMAN. Aye.
The CLERK. Mr. Berman votes aye.
Mr. Boucher.
Mr. BOUCHER. Aye.
The CLERK. Mr. Boucher votes aye.
Mr. Nadler.
Mr. NADLER. Aye.
The CLERK. Mr. Nadler votes aye.
Mr. Scott.
Mr. SCOTT. Aye.
The CLERK. Mr. Scott votes aye.
Mr. Watt.
Mr. WATT. Aye.
The CLERK. Mr. Watt votes aye.
Ms. Lofgren.
Ms. LOFGREN. Aye.
The CLERK. Ms. Lofgren votes aye.
Ms. Jackson Lee.
Ms. JACKSON LEE. Aye.
The CLERK. Ms. Jackson Lee votes aye.
Ms. Waters.
Ms. WATERS. Aye.
The CLERK. Ms. Waters votes aye.
Mr. Meehan.
Mr. MEEHAN. Aye.
The CLERK. Mr. Meehan votes aye.
Mr. Delahunt.
Mr. DELAHUNT. Aye.
The CLERK. Mr. Delahunt votes aye.
Mr. Wexler.
Mr. WEXLER. Aye.
The CLERK. Mr. Wexler votes aye.
Mr. Rothman.
Mr. ROTHMAN. Aye.

The CLERK. Mr. Rothman votes aye.
Mr. Barrett.
Mr. BARRETT. Aye.
The CLERK. Mr. Barrett votes aye.
Mr. Hyde.
Mr. HYDE. No.
The CLERK. Mr. Hyde votes no.
Mr. HYDE. The Clerk will report.
The CLERK. Mr. Chairman, there are 21 ayes and 17 noes.
Mr. HYDE. And the amendment is not agreed to.
The Chair recognizes Mr. Berman, the gentleman from California.
The CLERK. There are 21 ayes and 16 noes, Mr. Chairman.
Mr. Chairman, there are 21 noes and 16 ayes.
Mr. HYDE. See me after class. The amendment is not agreed to.
The Chair recognizes the gentleman from California, Mr. Berman.
Mr. BERMAN. Mr. Chairman, I have an amendment at the desk.
Mr. HYDE. The Clerk will report the amendment, I think.
The CLERK. Amendment to H. Res. _____, offered by Mr. Berman.

AMENDMENT TO H. RES. _____

OFFERED BY MR. BERMAN

Amend the first section to read as follows:

That the Committee on the Judiciary, acting as a whole or by any subcommittee thereof appointed by the chairman for the purposes hereof and in accordance with the rules of the committee, is authorized and directed to review the constitutional standards for impeachment and determine if the facts stated in the narrative portion of the Referral of the Independent Counsel, if assumed to be true, would constitute grounds for the impeachment of William Jefferson Clinton, President of the United States of America. If the committee determines that the facts stated in the narrative portion of the Referral, if assumed to be true, would constitute grounds for impeachment, then the committee shall investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach the President. The committee shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper.

Mr. HYDE. The gentleman from California is recognized for 5 minutes in support of his amendment.
Mr. BERMAN. Thank you very much, Mr. Chairman.
My amendment amends only the first paragraph of the underlying resolution that the chairman has introduced. In other words, every other aspect of the procedures suggested by the chairman in the underlying resolution that is before us remains the same.
Initially, I want to apologize to my Democratic colleagues. I have been in this position for 16 years and before that in the California legislature for a long time, and I normally don't offer amendments without talking to my colleagues about what I am going to do. But this idea came to me over the last couple of days as a way to try and resolve some of the differences between us and to both serve the country and serve the concept of bipartisanship.
I would like to just lay out some of the points behind this amendment.

I really speak here to a lot of my Republican colleagues. It is always tough to shift at the last second, to move away from established positions, but I just throw this out to you.

First, what the amendment doesn't do. The amendment I am proposing does not delay the impeachment inquiry. It doesn't make it conditional on some findings down the road. This amendment makes no effort to try and define a constitutional standard beyond what is already in the Constitution.

I think we obviously have to consider what precedent, what the Founding Fathers said, but it makes no effort to define it.

This proposal has no interim deadlines. This proposal has no final deadlines. The chairman of the committee has said he wants to complete this by the end of the year. He is going to try to complete it by the end of the year. That is good enough for me.

What this proposal does do is limit the scope to the 595(c) referral that we have received. I know the arguments that have been made against the approach—Watergate didn't have any limits on its scope—but I would suggest several things have happened since that time, and this is in a very different context. And while many would like to maintain the open-ended nature of an inquiry to deal with what might happen in the future, the chance to put together a bipartisan resolution and get a substantial number of Democrats and to cut through the charge that this is being moved on a partisan basis is worth making a compromise with your desire in its purest sense.

The amendment says, let's limit an inquiry to the referral, and let's assume that the narrative in the Starr report is true and decide if that constitutes grounds for impeachment.

Why do I do that? I think it is the logical order. I think it makes sense on its own. But the real goal is much broader than that.

I cannot believe that anyone in this body wants to go through an evidentiary fact-finding process on a matter that has been investigated over 8 or 9 months to bring in Monica Lewinsky and Linda Tripp to testify and go through this whole process all over again.

As I mentioned in my opening statement, for the sake of the children of America, if we can resolve this question without going through that process, if we can accept the Starr narrative as true—and that means we are not talking about exculpatory evidence that wasn't included in the report or the justification for the original referral—and then decide whether or not, based on a sense of the constitutional standards for impeachment whether the facts in the narrative constitute grounds for impeachment. If the answer is yes, then we have to go through that fact-finding process. But we are making an effort to do this the right way.

I believe the country will be the better for it, I believe this institution will be the better for it, and so I ask you to consider it. It is meant in the spirit of trying to put together a bipartisan approach to this.

Mr. HYDE. I certainly thank the gentleman.

The gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, reluctantly, I rise in opposition to the amendment.

Mr. Chairman, as well-intentioned as Mr. Berman's amendment is, I think it leads us into a constitutional trap which we don't

want to get ourselves put into. In lines 7 and 8, it says that the committee, in the stage that Mr. Berman has described in his investigation, should assume that the facts in the referral that are in the narrative section are assumed to be true.

I do not think we want to do that. The House of Representatives has the constitutional function of determining what the facts are. That was what was done in both the President Nixon and Judge Nixon impeachments, as well as the Judge Hastings and Judge Clayburn impeachments.

Under the doctrine of separation of power, I am afraid the amendment of Mr. Berman's would, in fact, delegate part of our powers effectively to the Independent Counsel's office, because we are assuming everything that he sends over here is true, and that is something that I really don't think we should do.

Now, I would like to read a bit from the memorandum that was submitted in 1974 as the Judiciary Committee began the President Nixon impeachment process.

The third from the last paragraph says, this memorandum offers no fixed standards for determining whether grounds for impeachment exist. The framers did not write a fixed standard. Instead they adopted from English history a standard sufficiently general and flexible to meet future circumstances and events, the nature and character of which they could not foresee.

Further on up in this introduction, they talked about having the inquiry staff go through the evidence, a lot of which was formed by the Erwin Committee and is contained in the green volumes that are over there on the table, which is much more massive than the evidence that Mr. Starr has sent over and which we have released as relevant.

The impeachment memo of 1974 says "as the factual investigation progresses, it will become possible to state more specifically the constitutional, legal and conceptual framework within which the staff and the committee work. Delicate issues of basic constitutional law are involved. Those issues cannot be defined in detail in advance of a full investigation of the facts. The Supreme Court of the United States does not reach out in the abstract rule on the constitutionality of statutes or of conduct. Cases must be brought and adjudicated on particular facts in terms of the Constitution. Similarly, the House does not engage in abstract, adversary or hypothetical debates about the precise nature of conduct that calls for the exercise of its constitutional powers. Rather, it must await the full development of the facts and understanding of the events to which those facts relate."

Here there is a huge dispute as to the facts. We heard that from Mr. Schippers and Mr. Lowell during their presentations this afternoon, and I think that that was reflected in the very good debate that we have had on this subject all day.

Mr. Berman's amendment assumes that all of the facts that Judge Starr has sent over to be correct for the purposes of applying the constitutional standard. That I think is putting the cart before the horse, and I do think that this amendment, while well-intentioned, actually does derogate our constitutional powers in the future to future independent counsels or other officials of the executive or judicial branches, and we should not be doing that.

Mr. HYDE. The gentlewoman from California.

Ms. WATERS. Mr. Chairman, this amendment takes me by total surprise. I wish I had been able to see it or discuss it with my friend and colleague from California, Mr. Berman, because it is a leap. It is a leap from where I come from.

I discussed earlier today my concept of fairness, and certainly I would have some difficulty without all parties stipulating to these facts, have some difficulty moving ahead with them. But the more you talked about saving the children of America and the more you talked about the prospects of having Monica Lewinsky and Linda Tripp before this committee, the more I began to think perhaps, just perhaps, there are some possibilities here.

I am very anxious to look for compromise. I have been identified as one of the most partisan on this side of the aisle. And each time I hear it said, I look for ways by which to bring this committee to some consensus, because I think it is important that we do that.

So, Mr. Berman, I would tell you that I have known you for many years, and I have worked very well with you, and I would carefully and somewhat reluctantly support this amendment in the interest of getting rid of the partisan identification that this committee has gotten.

Mr. GEKAS. Would the gentlewoman yield?

Ms. WATERS. Yes.

Mr. GEKAS. If we were to adopt this amendment, I would submit to you we would be stipulating that perjury, in effect, did occur. If the report of the facts that are contained in the Starr report are to be considered as true, then the factual situation in which he concludes in the Starr report that perjury was committed would be for the purposes of this amendment—correct me if I am wrong—would be——

Ms. WATERS. Reclaiming my time, that is not my understanding as to the identification of the narrative portion.

I yield to the maker of the motion first and certainly.

Mr. BERMAN. I believe the gentleman from Massachusetts is going to develop this also, but I just want to turn your attention to it. It is the narrative portion. We will then get into the conclusions. I am not trying to say we should defer our process to Mr. Starr. What I am trying to say is, before we decide to go into a full-blown evidentiary hearing, let us take the facts as he has portrayed them and then decide as a committee if they constitute grounds for impeachment.

Ms. WATERS. Reclaiming my time, I yield to the gentleman from Massachusetts.

Mr. FRANK. The gentleman from Pennsylvania issued an invitation to correct him if he was wrong. In this case, he misread it or read it too hastily. The resolution does not say the facts are true. It says, if assumed to be true. If assumed to be true is very different than true.

And so what the gentleman from California has said is, let us first assume that they are true for the purposes of determining whether, if true, they would be impeachable. Then we will go back to a determination of whether they are true.

Ms. WATERS. Reclaiming my time, I yield to Mr. Rothman.

Mr. ROTHMAN. Thank you.

If I can try to be of assistance to my friend from Pennsylvania, the amendment offered by Mr. Berman does not say that we should accept the conclusions about the facts prepared by Mr. Starr or reached by Mr. Starr. It simply says that for the purposes of deciding whether the facts, if true, reach the level that the Constitution requires the President's impeachment, that we simply assume that the facts are true, not Mr. Starr's conclusion about the facts or inferences from the facts but simply the facts alone.

Mr. HYDE. The gentlewoman's time has expired.

The gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I think we can explain some of the confusion. Mr. Berman is not playing fair. He actually listened to what was being said, drafted up an amendment based in part on some of the arguments and presented it. And, therefore, some of the pre-done arguments don't necessarily fit it.

I have to say that some of the arguments we heard from the gentleman from Wisconsin simply aren't about this amendment. The amendment is very carefully written. The gentleman suggested that this delegates our fact-finding to Mr. Starr. Frankly, there are some of us here who would be very reluctant to delegate anything to Mr. Starr, up to and including mailing a letter.

But the resolution does not say that. What the resolution says is, first, we will say that if you assumed the facts of Mr. Starr's narrative were true, if you assumed they were true, would it then be an impeachable offense? Then if you decided that it was or some parts of it were, you would then go and determine whether sufficient grounds exist.

First, you find out if these facts, if true, would be the grounds. Then you would go and say, okay, then do the grounds exist?

It also avoids the argument that the gentleman from Wisconsin was making about an abstract definition of impeachment. This does not call for an abstract definition of impeachment. It says, remember we have an Independent Counsel now; they didn't have one in Watergate. For that, we may envy them. Maybe some of us now wish that we didn't have an Independent Counsel. But we do, and he is a reality. So are his 4-plus years of investigation.

What this resolution says is, we will take the factual material that the Independent Counsel gave us, and we will not define impeachment in the abstract. We will see whether we think the arguments he makes, if we assume they were true, would be impeachable. It is not delegating anything.

If the facts were true, we say this. What we are saying here is that we continue to do the fact-finding, and we will decide whether or not these are impeachable offenses, not in the abstract.

Here is the crux and here is where I think my friends on the other side are having trouble. This does say that we will focus on the Monica Lewinsky matter. And let us not forget, Kenneth Starr, more than 4 years ago, started looking into Whitewater and the FBI files and the travel office. And he looked and he looked and he looked, and he wanted very much to find something because he really does not like Bill Clinton, but he was not able to find anything.

And so what happened then was Monica Lewinsky, through Linda Tripp, came to his desk. And he then reported to us on the

matter he has been studying since January, not on the matter he has been studying since 4 years ago and 3 years ago and 2 years ago.

Here is the crux of this: What this says is, let us look at what he sent us. And what we have got on the other side have been, from the Speaker and from others, suggestions. Maybe we are going to look at Whitewater. Maybe we will look into the FBI files. The fact is that Kenneth Starr, a dedicated critic of Bill Clinton, has found nothing. You are in a position, if you don't accept this, of kind of invoking that. That is out in the atmosphere. No, they could not come up with anything. Kenneth Starr, who really dislikes Bill Clinton, who thinks he should not be President, he wants him out of there, could not send us anything.

This resolution says, fine. Let us call Mr. Starr's bluff. Let us call everybody's bluff. Let us look at what you sent us. Here is what you sent us, and we will see. If it is true, is it impeachable? And if it is impeachable, then let us go back and see what the facts were. That is the argument.

And the only reason not to adopt that, because this does not do an abstract impeachment, this says, specifically, are these facts impeachable. This does not delegate our fact-finding. It says, if we decide that these facts, if true, would be impeachable, then we will apply them.

What this does is to admit, and I think this is the problem, because I think there are elements out there in the electorate who have some strength in this party who don't want to give up on the ghost of Whitewater, who don't want to give up on the FBI files, who don't want to give up on the travel office.

We talked about forests before trees and carts before horses. You want to make Monica Lewinsky the needle in the haystack. The haystack is all this other stuff that is out there. What people want to do is to use that somehow, and we see it in the right-wing columnists and elsewhere. They want to use that against Bill Clinton without ever having to come to terms with it.

This amendment by Mr. Berman says, we will give a very thorough study of the Monica Lewinsky matter. We will check and see whether those facts would be impeachable and whether they were true. And, the only reason for denying it is that some people don't want to acknowledge that all of this other set of accusations going back over 3½ and 4½ years are untrue.

Mr. HYDE. The gentleman from Tennessee. Would the gentleman yield?

Mr. BRYANT. I would be happy to.

Mr. HYDE. I just want to say that if you read the introduction to the Starr referral, you find that Whitewater, Travelgate, Filegate are still alive. They are not closed out. He has not closed his shop down. This is not the only game in town. They are still pursuing those. They interrupted—they were nearly through with them. They interrupted when they got assigned the Lewinsky matter.

But if we were to adopt Mr. Berman's amendment, that confines us to the narrative part of the Starr referral, and I am unwilling to do that. I want to see what else is there.